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CHINA IN LAW AND COMMERCE

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CHINA

IN LAW AND COMMERCE

BY

T. R. JERNIGAN

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PREFACE

In its administration the government of China is despotic and democratic. Practically each province exists as an independent unit and is sufficient unto itself, but in theory the power of the Emperor is unlimited.

It would seem impossible for any government to endure long when such antagonistic elements entered into its administration, and yet China is the oldest empire of history.

While the decrees of the Emperor are received and promptly executed by the provincial authorities, there have been few emperors of China who proved bold enough to persist in disregarding public opinion in a province.

In China law is founded on custom, and there are as many different customs in the Empire as there are provinces; and frequently in the same province customs relating to important public and private business are found to differ materially.

As the building of the governmental fabric proceeds from the family unit and not from the central authority at Peking, it is more apparent, therefore, why custom is so influential a factor in all things Chinese.

The customs of a family are mainly the customs of the Empire, and before the inner history of China can be

understood there must be a careful study of the family life of the people.

In accordance with the above view the following papers were written to indicate the more influential agencies in the law and commerce of China; and when my own observation and experience have failed to satisfy me, I have consulted the standard authorities named in the text, in order that what I have written should at least merit confidence because of its substantial accuracy.

T. R. JERNIGAN.

SHANGHAI, CHINA.

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CHINA IN LAW AND COMMERCE

CHAPTER I

PHYSICAL FEATURES AND ORIGINS

As I intend to write about the government and the laws and customs of China, I will introduce the subject with a brief account of the physical characteristics of the Empire and of the origin of the Chinese. If an interest should be felt in the system of government and the administration of the laws, there would naturally be the wish to know something of the country and the people.

China occupies in Asia a position similar to that of the United States in America. The former looks out over the Pacific as the latter do over the Atlantic, and both are between the twenty-fifth and fortieth parallels of north latitude. It is due to this fact that there is much resemblance between the two in climate as well as productions.

The climates of both are distinctly continental. The distinctions between summer and winter, especially in the more northern regions of each, are extremely marked. Both are well watered. The valleys of their great rivers, amongst the largest in the world, contain areas of land not surpassed in fertility elsewhere.

The territory of the United States extends across the entire continent and has on the Pacific a seaboard of about equal extent with that on the Atlantic. China, owing to the greater extent, east and west, of the Old Continent,

has a western frontier bounded by vast deserts, which are amongst the most unproductive on the face of the earth. This fact modifies to a certain degree the climatic distinctions, and by introducing the phenomenon of the monsoon brings it about that China, practically, has two distinct climates: one, in summer, is that of the tropics, the other, in winter, is actually north temperate. They correspond in each case with a shift of latitude from ten to twelve degrees south or north respectively.

The water system of China, compared with that of the United States, is materially different. Instead of the main drainage of the country being directed from north to south, the rivers in China mostly flow from east to west, a fact which affects the products of the soil and the communications and commerce of the land.

The three great commercial cities of China are situated at the mouths of her three great rivers. There is Canton, with its distributing port of Hongkong, at the mouth of the Pearl River, which communicates with the important provinces of Kwangtung and Kwangsi; Shanghai, at the mouth of the great river Yangtse, which communicates with the entire centre and southwest; and, lastly, Tientsin, at the mouth of the Peiho, which opens up water communication with the whole of the metropolitan province of Pechili, and from it, by well-beaten tracks, with the entire northwest.

Still farther to the northeast, outside the limits of China proper, and situated at the mouth of the Liao River, is the growing port of Newchwang, which must not be omitted from any account of China. This port affords an outlet for the fertile country of Manchuria, which, although geographically and geologically forming a separate region, cannot commercially and politically be discussed apart. Although China cannot be considered a

mountainous country, few of its elevations rising above five thousand feet, yet not one of the provinces is without its mountain chain. But these are seldom much higher than from sixteen hundred to twenty-five hundred feet, though they are very uniform in structure and appearance. For the most part these mountain chains are composed of palæozoic rocks, limestone, or irregular sandstones, with cones of granite or other hypogene rocks. The direction of these chains is very uniform, running in all the provinces from Szechuan eastward in lines trending from a few degrees south of southwest to northeast.

The rivers, flowing in a general direction from west to east, have to submit to the superior influence of the mountain ranges, and run alternately toward the northeast and southeast, as their courses lie in the synclinal, or find a breach at right angles with the strike. This in turn leads to the somewhat chess-board arrangement of the outlines of the provinces, though in the majority of cases these latter are found to consist of a great central depression surrounded by mountain chains of no great altitude, the watershed of which is also the boundary of the province.

Hence it occurs that for the most part each province forms a separate basin, and is marked not only by its own water system, but by its characteristic ethnological features. Thus the inhabitants of Kiangsi are clearly differentiated from those of Hunan, while both types are readily distinguishable from those of Kwangtung or Kwangsi. In a less degree the fauna and flora of the several provinces have their distinct characteristics, and this, there is little doubt, has immediately contributed to the growth of the large amount of interprovincial commerce, which in all periods has been a marked feature of the Chinese as a nation.

From a series of like causes, also intimately connected with the geology of the country, the physical aspect of north China has come to differ widely from that of the south. While south of the Yangtse the plains and valleys are filled with alluvial formations, which constitute the surface soil of the land, and whose deposition may be traced to causes still in operation, the plains and bottoms of China, north of the same line, though apparently similar in situation, are covered with a remarkable deposit, in no respect alluvial, known to geologists as loess. Again, while the difference in level between the surface of the alluvial delta of the Yangtse and the plains of Szechuan is barely discernible, even with the aid of the barometer, the plain of Kansu in the extreme northwest rises fully three thousand feet above the coast-line of Pechili. The general aspect, the products both animal and vegetable, the drainage system, and the means of locomotion differ widely, and as a consequence the history of north China has been materially influenced and forced into developments extremely different from those of the south.

The one main exception in south China has been the province of Yunnan, which is situated at the extreme southeast angle of the Tibetan highlands, where these elevated mountain masses come in contact with the mountain system of China referred to. Yunnan forms a distinct mountain plateau. Its valleys are filled with deposits that are the direct result of the local wear and tear of its own mountains, and hence differ from the alluvial plains of south China as much as from the loess-clad uplands of the northwest. The political connection of Yunnan with China is also much more recent than that of the other provinces, prior to the thirteenth century belonging to the political system of the Indo-Chinese Peninsula.

Historically, north China is older than south China.

From whatever quarter of the world the settlers originally came, it is a historical fact that about fourteen centuries before Christ these settlers, to whom is due the civilization of northern China, were in occupation of the extreme northwest along the upper waters of the Hwang-ho in what now constitutes the provinces of Kansu and Shensi. The geographical peculiarities of this district had subsequently a powerful effect in shaping the infant state.

At that period, and for many centuries after, the land wore a different aspect from what it now presents. The hillsides were abundantly covered with primeval forests of stately trees, while the low grounds, where the soil consisted of rich loess, as yet comparatively little denuded, were covered with herbage interspersed with clumps of mulberry, elm, chestnut, and other trees, which in these latitudes associate in clusters. As the forests on the hillsides had not yet been cut down, the country was more equally watered, nor were the extremes of climate then experienced in these regions of such intensity as at present. The forests abounded in wild game, bears, oxen, deer, foxes, beavers, pheasants, etc. Over the plains wandered herds of elephants, rhinoceroses, or the tailed deer, a few solitary descendants of which are still to be found in the neglected park at Peking, or scattered through the menageries of Europe, while from the mulberry trees depended long skeins of silk from the uncultivated silkworms that feasted unmolested on their leaves. The native inhabitants were gentle, pastoral tribes who led uneventful lives amidst pastoral surroundings. They were dark-complexioned, had long black hair, and were, on the whole, not unlike many of the present Tibetan peoples of the Kokonor, whom they likewise resembled in their manners and stage of civilization. The newcomers were, on the contrary, fair-haired, with light blue or gray eyes.

They were agriculturists, pure and simple, and despised the ways of their pastoral predecessors, on whom they waged incessant war. Agriculture with them was more than an art, it was a religion; and this fact has in all succeeding ages markedly affected the products, and even the face, of the land.

These newcomers on taking possession proceeded to clear the forests. So deeply rooted was their distaste for pastoral life that, except for the purpose of drawing the plough, cattle-rearing was discouraged, and even sheep were regarded with disfavour. A war of extermination was carried on against the feral inhabitants of the woods and pasture lands. The only tree whose cultivation was encouraged was the mulberry, the leaves of which were required for the feeding of the silkworm; and the cultivation of silk at an early date became one of the chief industries of China. Unfortunately for the land itself all these new arts were cultivated to an extreme which, carried on for thousands of years, has changed both the surface and the climate of north China.

The destruction of the hill forests has left the hillsides bare and barren. Their covering of herbage has been washed away from their unprotected surfaces, and this denudation has reacted on the climate, inducing long periods of drought which, alternating with destructive rainfalls, have proved injurious to the well-being of the inhabitants. In the plains the discouragement of cattle-rearing and the want of food have led to the practical obliteration of the grasses which once clothed the surface of the loess.

True to the instinct engendered by centuries of agriculture run wild, the modern peasant, without fuel other than the droppings of his few domestic animals, or the scant grass which he finds growing by the wayside, does

not hesitate to grub up by the roots the plants that for him have no other conceivable use than as substitutes for fire-wood.

The result is as disastrous as the destruction of the forests. The surface of the light soil is deprived of its natural protection, and as the period of the spring ploughing is coincident with the windy season, the yearly recurring gales carry away the superficial soil in what may be described as streams, as if an ever acting planing-machine were annually engaged in removing the surface and carrying the shavings to the nearest ravines, whence, in turn, by the floods of the early summer, the shavings are carried out into the Gulf of Pechili, which they are rapidly filling up. Even independent of the aqueous denudation, which is characteristic of all the rivers of north China, and which gives its name to the Hwang-ho, literally Yellow River, one of the most marked phenomena in northern China is the perpetual recurrence of dust-storms which, especially in the spring months, often darken the air for days at a time. One of these dust-storms, it has been calculated, bears out to sea several million tons of the fine loess soil, and as several occur in the course of the year, the annual waste of the fertile loess is a phenomenon beginning to have its deleterious effect, in addition to other sources of degeneration in northern China, written of above.

Similar causes are at work throughout the entire continent of Asia from the Persian Gulf to the Yellow Sea. Everywhere is met the same phenomenon of a gradual deterioration of climate, accompanied by destruction of the ancient forests and a retrocession of the cultivated area. In these respects north China partakes of a continental rather than an isolated character. The entire belt between the thirtieth and forty-fifth parallels, the long strip lying

between the tropics and the true temperate zone, partakes all through of one character. To seek the causes at work one must go back beyond the times of history or even the first introduction of man.

In times geological, by no means remote, the whole of this vast belt was in fact represented by a great Asiatic Mediterranean Sea whose currents brought a continual stream of warm water to lave the shores of the northern and southern lands, both covered by rich forests, and each inhabited by its own peculiar mammalian fauna. There was, in fact, in north Asia no glacial epoch, and the old pre-glacial mammals of Europe long survived in what are now the frozen tundras of Siberia.

When the early immigrants first arrived in north China, they found the land still occupied by the mammoth and the woolly rhinoceros; allusions to both of these are numerous in the older Chinese classics, more especially in the Shi King and the Tso Chwên. North and south China, in the period immediately before the arrival of man, belonged to two separate continents, and this circumstance, and this alone, can account for their marked physical distinctions, whether climatic, structural, or ethnological.

Politically, the distinction between north and south China was, till the thirteenth century, as marked. In Marco Polo's time, while Cathay was the usual title for the northern section, the southern was known by the ancient name of Manzi or more correctly Mantsz. The distinction was an ancient one, and dates back to a period before the foundation of the Chinese Empire. It was not till the time of Ts'in Shi Hwangti, in the third century B.C., that the peoples forming the ruling race in China crossed the Mien Shan, the name then applied to the mountain masses separating Szechuan from the basin of the Hwang-ho and prolonged to the eastward through the greater portion of

what is now the northern part of the province of Anhwei. Prior to this inroad of the great conqueror, whilst the north of this line was under the dominion of the immigrant tribes of the Cheos, all south of the Mien range was under the rule, direct or indirect, of the kings of Ch'u, who themselves were by race Mantsz. These Mantsz were an Indo-Chinese race and owed what civilization they possessed rather to south India than to their neighbours in north China. The powerful Emperors of the early Hans had succeeded in bringing southern China, so far as the Nanling range, under their dominion, but after the dynasty came to an end, China for many centuries went back to her former state of division.

Once more in the early part of the seventh century the great ruler Li Shimin, founder of the house of T'ang, succeeded in uniting north and south again, to part, however, on the fall of the house, after which, with a short interval during the southern Sung, the old state of division was restored, to continue till the thirteenth century, when Kublai, at the head of his Mongols, finally united north and south, a condition which has survived till the present day. Kublai did even more, for to his arms is due the incorporation into the Chinese Empire of the great province of Yunnan, while temporarily he extended its rule over Burma and a large portion of the Indo-Chinese Peninsula.

For the greater part of their history, then, north and south China have existed as separate and independent states, and it is necessary for a due understanding of the modern Chinese problem that this fact should be recognized. It is quite true that much intermixture of north with south has taken place in comparatively modern times, when forced movements of the populations have by wholesale modified the inhabitants of one or other of the prov-

inces. Thus during the time of the Mongol dynasty large settlements of northern immigrants took place in Yunnan. The commencement of the present dynasty was, however, marked by the greatest of these transplantations. During the troublous times, at the close of the Ming rule, so great was the anarchy, and so fearful the destruction of human life in the great province of Szechuan, that on the establishment of settled government, under the Manchu rule, the country was found to have relapsed almost to a state of nature, and large districts were found waste and practically depopulated. To fill the void the new government imported an almost entirely new population from the northern provinces of Shensi, which it settled on the waste grounds. The result is seen not only in the physique of the inhabitants, but is marked in the spoken dialect which is now essentially northern in its connections. About the same period, from similar causes, the population of Shantung had become so attenuated that immigration from the northwest was invited. The result here again was not only a modification of the language, but the loss amongst the modern inhabitants of nearly all the old traditions of this classic land, in the old days the most advanced of the entire hegemony.

Even in modern days the same causes are at work gradually unifying the population of the Empire. Between 1859 and 1865 the whole of southern Kiangnan had become depopulated, between the Taiping rebels on the one side, and the bands of semi-savage Hunan troops sent to repress the movement on the other. When the rebellion was suppressed, these troops were settled in large numbers on the waste lands, as in the former cases referred to; the result has been a very considerable modification of the speech as well as the loss of many of the old traditions.

The great distinction, however, between north and south

depends not on the characters and affinities of the peoples, but on the character of the land and the nature of the soil. Climate and soil alike point out south China as essentially a rice-growing country, both equally interdict its cultivation to any extent in the north. Perforce the southern Chinese is a rice-eater, with all the peculiarities attaching to the rice-eater elsewhere. The northerner, compelled to live on his more substantial crops of wheat, pulse, and millet, has developed a stronger physique as well as a less nervous organization. There are thus at work in modern China two strongly contrasted factors, one dependent on the nature of the climate and soil, making for divergence; the other political, tending toward unification of the population.

As stated at the commencement of this introduction, the exposed rocks throughout the eighteen provinces are in the main of palæozoic age. These rocks all through have undergone much subsequent change, and generally are to be found much altered and denuded. For the most part, as might have been anticipated from its former continental exposure, south China has undergone a longer period of denudation; hence the lower strata and the subjacent crystalline rocks are more extensively exposed, while the upper rocks, especially the coal measures, occur in smaller and more widely separated localities.

Owing to the long-continued submergence of north China, the upper members of the palæozoic series have here undergone far less denudation, and from this fact it results that the true coal measures are far more widely distributed and cover far greater areas than those south of the Yangtse. This fact has always had an important bearing on the resources of the north. During the Mongol and Ming dynasties mining, if not entirely encouraged, was permitted to go on without molestation from the govern-

ment, and large quantities of coal and other minerals were raised in all the northern provinces to the no small advantage of the people at large. With the advent of the present Manchu dynasty another policy supervened. The Manchus never attained to the entire confidence of the people whom they had conquered, and this mistrust they showed in various ways, as in the sumptuary regulations which they forced on an unwilling people. From similar motives the working of the mines was discouraged, and as far as any new works were concerned, sternly repressed, to the no small loss of the Empire at large. At the present day the investigator finds in all the northern provinces extensive remains of former workings, and to his inquiries the same answer is always returned that they were old Ming workings forbidden under the present régime. Occasionally the distaste for mining took a different form, and stone tablets are seen setting forth the forcible closure of certain mines, and orders under heavy penalties forbidding their reopening.

Coal in workable quantities occurs in all the northern provinces. In Shantung it is to be found in basins more or less detached in most of the prefectures, of which Tsinan, Tsingchow, Taingan, and Ichow may be specially mentioned, the coal in Taingan-fu being apparently of the highest class. In Chili, wherever the fringing mountain ranges rise over the level of the plain, alluvial or loess, coal-mines worked under the unfavourable conditions of absence of proper machinery and official disfavour are to be found. Amongst those partially explored may be mentioned the coal-fields of Wanping, a few miles north-east of Peking, Pingting, and Tsechow. The coal-fields of Tangshan, including the neighbouring workings of Linsse, are being mined under an Anglo-Belgian company with machinery of the most advanced modern type, and give

satisfactory results to the proprietors. There is little doubt that these measures, probably in most cases at workable depths, underlie the greater part of the plain of lower Chili. The widest extension of the coal measures is, however, to be found in the great field of southern Shansi and northern Honan, which will probably prove to be one of the most extensive coal deposits. These deposits are already being opened up, with foreign machinery and under foreign inspection, by the Peking Syndicate, an English company which has obtained valuable mining and railway concessions in this province.

These coal measures are known to be accompanied by valuable deposits of excellent iron ore. Though worked for many centuries in their usual primitive manner by the Chinese, they have not yet been taken in hand by the syndicate, though arrangements are in progress to enable it to do so.

Though not so well known as Shansi, Shensi also produces considerable quantities of coal and iron, especially in its southern districts along the head waters of the river Han. Europeans are practically unacquainted with this coal-field, which, judging from the observations of the Abbé David, must be of considerable extent and importance. Farther west there are known to be large areas of productive measures in Kansu, and these are noticed as reaching into the extreme west of the province and even into the New Dominion.

Although there is little prospect of these latter being utilized in the near future, there is the possibility in every part of their eventually becoming valuable assets. With the gradual advance of north China, it will annually become of greater importance to secure her communications with the Far West. Geographical considerations point to the great highway via Tungkwan as the only available

route, and the presence of important coal supplies at short intervals all the way from Honan to Singan, and from thence all the way to Kansu and Shacheo, seems to indicate this as the future highroad from western Asia to the heart of China. In practice, railroads have been found the only possible means of traversing great deserts, eliminating as they do the difficult question of time and supplies. Should it eventually be found practicable to cross the elevated passes over the Pamirs, the desert portion of the track would be found to offer no insuperable difficulty in the reëstablishment of the ancient trade route from west to east formerly opened up by the enterprise of the great Chinese Emperor Wu Ti.

The widely extended palæozoic formation of China extends up to the flanks of the vast elevated plateau of Mongolia, where it is succeeded by a great outburst of igneous rocks. Along the junction, as is to be noticed in many similar instances, there apparently occur indications of rich metallic deposits. Amongst these may be mentioned copper, which seems to have been formerly worked in several localities till the mines were closed through the jealous interference of the Manchu conquerors of China. Gold is also known to occur in paying quantities in the sands and alluvial deposits of the streams flowing from the Mongolian plateau, while in several localities there are extensive deposits of argentiferous lead; the region, though practically unexplored, affords indications that a thorough exploration would result in the discovery of a rich mining district, which in the present condition of the country, with its congested population, would be invaluable.

I have earlier in this introduction spoken of the wasteful system of agriculture adopted throughout north China, and the circumstances under which it originated. The surface soil throughout the whole of northern China may

be described as loess, either first-hand or rearranged, and between these two there is to be drawn a distinct line of difference. The original loess is, in fact, rich in soluble salts, principally of lime; in the rearranged loess along the principal rivers, especially the Hwang-ho, these salts have been for the most part dissolved out, and the resulting deposit is an almost impalpable sand, which offers no resistance to the denuding effects of wind and water. This is one of the main causes which have concurred to increase the naturally wandering character of the rivers of the region, and to detract seriously from their navigability. Except here and there for short distances, the Hwang-ho, though one of the great rivers of the world, is actually of no service as a freight carrier. From the same cause, as well as from the loess in its lower course being underlaid by deep beds of marine sands, the river-bed has a tendency to leak, with the result that the size of the river, and the body of water carried, continually decreases from its entrance on to the plain of Honan till its discharge into the Gulf of Pechili. For a like reason the mouth is effectually closed by shifting bars and sand-banks, so that no sea-going vessels can enter the channel.

The loess is in most descriptions of north China represented as affording a most fertile soil, producing without manure abundant crops, and being answerable for the undoubted productiveness of the plains. To a considerable extent this is true. It is certain, for instance, that the use of manure is not required when the loess forms the superficial soil, and the materials elsewhere preserved with care for the fertilization of the soil are in the northern provinces of China relegated to the baser use of affording argols for heating purposes. This seeming advantage has, however, to be dearly paid for at the expense of the soil itself; in other words has to be provided out of the

capital of the land. The absence of all shelter for the surface, whether from grass or trees, results in so great and continuous wear of the surface that every year a new deposit is exposed, the old being carried down to the Gulf of Pechili by the joint action of the winds and running streams.

This is the true explanation of the reputed special fertility of the loess. The area of land available for cultivation is annually, in fact, diminishing, and the production of useful crops becoming from year to year less. This recession of the fertile lands is very noticeable in Shantung, especially in the Tsinan prefecture, where the outliers of the limestone range to the south have been divested of their former covering of loess, which has left behind only the nodules once contained in its substance to mark its former extension. The bare limestone rocks thus exposed afford only a precarious existence to a few flocks of undersized sheep in contrast to the comparatively rich crops that once covered their surface. A partial exception to this gloomy condition of affairs is to be found in the districts overrun by the Yellow River in its change of bed in the year 1854. During the wanderings of the stream in search of a new bed, it covered the low country with fine, almost impalpable sand to a depth of from six to nine feet. For many years, till in fact the sand commenced to break up, the whole surface of the country was little better than a sandy desert. Of late years, possibly from the oxidation of the contained apatites, the soil has commenced to bear heavy crops of wheat. Whether this new condition will prove permanent remains, of course, to be seen.

All together the physical aspects of north China are in strangely marked contrast with those prevailing south of the Yangtse divide, and the contrast has been marked in all previous ages by an equally marked historic and ethno-

logical divergence, only of recent centuries in process of extinction.

South and central China to the northern verge of the basin of the Yangtse described above, afford very different conditions from those prevailing northward. If north China belongs geographically to central Asia, south China as clearly must be relegated to an Indo-Malayan continent. We have here left the peculiar products of the temperate zone, and its physiography and products must be compared with those of the subtorrid zone rather than with those of the northern continent. Geologically the intimate structural rocks of south China belong to the same great palæozoic series as those of the north, but their subsequent history is very different. While north China for ages was submerged under the great Asiatic Mediterranean, south China formed part of the Indo-Chinese continent. In consequence, as already stated, the upper rocks, which in the northern lands were preserved from subaërial denudation, were in the south in a great measure removed, and hence the coal measures which in one case form so marked a feature, are in the other either altogether absent, or occur only in widely separated localities, and are in no instance of any wide extent.

Though generally agreeing in character, south China must, however, be divided into at least three distinct areas, each marked by its own peculiar characteristics, — that of the north, extending from the west of Szechuan to the Yellow Sea; the great red sandstone basin of Szechuan, once forming the basin of a self-contained sea; and, lastly, the elevated plateau of Yunnan and its extension eastward through Kweichow and Kwangsi almost up to the verge of Kwangtung. The Meiling range with its continuations east and west may be considered as forming

the boundary line between the first and third. Of these regions Yunnan, abutting as it does on the great elevated region of Tibet and the Himalayas, is marked by rich metallic deposits, amongst which are to be noticed copper, silver, quicksilver, and probably tin and antimony. Throughout the remainder of the district, except in Szechuan, metallic and other mineral deposits occur but sparingly.

Szechuan, from its peculiar geological formation as a once isolated sea, has its own marked peculiarities, the most remarkable of which are its extensive brine wells, from which, from a depth often exceeding three thousand feet, salt is pumped to the surface. Petroleum is also met with in quantities in connection with the brine, and will probably in the near future become an important trade product. Coal is also found, but its position and quantity have not been satisfactorily explored.

From its much more southerly situation, as well as from its moister climate and the abundance of the rainfall, south China is very favourably placed for the growth of rice. The fact, too, of the soil being almost exclusively alluvial, and subject to but slight denudation compared with the loess of the north, adds to its adaptability. The rich valley bottoms produce heavy crops of rice and other tropical and semitropical grains, while, taking advantage of the plentiful supply of water furnished by the perennial streams everywhere flowing from the mountainous uplands, the sides of the hills are for the most part terraced up to their summits. The knowledge of Chinese agriculture possessed by the West was for the most part, in the first instance, acquired from the pictures on rice paper obtained at Canton during the early days of European intercourse, and it is not surprising that the traditional views of China and the Chinese held in Europe and America, till within the

last twenty or thirty years, have been mainly founded on China as seen or pictured in the extreme south, and mainly in the immediate neighbourhood of Canton. It was, indeed, only as a result of the war of 1859–1860 that north China was opened to foreign intercourse, so that the want of appreciation of the distinctions between north and south need hardly be a subject for wonder. I have written above of the absence in north China of means of water communication, or indeed of any proper system of communication whatever. This is curiously exhibited even in the common speech. The Chinese word for road is *lu*, but *lu*, in the sense of a road, is hardly ever used north of the Yangtse. In the south, goods and agricultural produce are carried along narrow, made roads on men's shoulders; in the north, both are generally conveyed on carts drawn by horses or mules, but the route on which they are conveyed is known as *tao*, literally way; the difference is noteworthy as exhibiting the distinction between the peoples. These ways are never made; they are obliterated every year when the farmer ploughs up his fields. In the spring when traffic opens, the carters make straight tracks across the ploughed fields toward their destination without reference to the wishes of the farmer, and every year the struggle between cultivator and wayfarer is renewed, the farmer's legal right to plough up his land being balanced against the carter's equally undoubted right to cross the land in any direction most suitable. The result of this chaotic condition of affairs can be easily forecast. Practically, except in a few localities where the former Emperors constructed special highways for some particular end, there are no roads, but merely ways in north China. This, combined with other retarding influences mentioned above, has had a disastrous effect on the well-being of the land. Toward the latter end of the

last century occurred one of those prolonged series of droughts to which the country is periodically liable. The sufferings, which under ordinary circumstances must have supervened, were aggravated by the condition of the communications, which were so bad that it was impossible to convey relief over a distance of more than a few miles, the feed of the animals using up all the provisions that could be carried. The result was that in certain districts, especially in Shensi, which were favoured with a sufficient water-supply, grain was so abundant as to be almost a drug, whilst in others, not more than forty or fifty miles distant, the unfortunate people were suffering all the horrors of an unrelieved and unrelievable famine, owing to the want of even the most primitive roads. The effect of these reiterated famines, which culminated in the last decade of the century, was to establish a curious traffic in children, especially infants; merchants in human flesh regularly traversed the famine districts, buying children for a mere song, their parents, who subsisted on wild roots or offal, being only too happy to accept any offer which gave a chance of life to their offspring. It will be readily recognized that these conditions paved the way for the entrance of railways into northern China, and also account for the fact that while the primitive populations undoubtedly view with jealousy the advent of the foreigner in person, the construction of railways has for the most part been eagerly welcomed.

In south China, owing to the abundant rainfall, the lower slopes of the land generally, and the absence of the thick, superficial clothing of loess, which covers with a pall of peculiarly penetrable soil the entire surface of the north, the rivers flow perennially, and when they attain to any size, become navigable. The main work of transportation is here carried on by water, with the concomitant advan-

tage that it is cheap. Such famines as occur in the north are here practically impossible, as, except in the worst of years, food can always be obtained for money, a thing not always possible in the worse-served provinces of the north.

In yet another feature north China contrasts badly with the south, and this is in the universal want of timber. The wasteful habits of the people have ended, as explained above, in the entire obliteration of the forests that once clothed the rising grounds; the want is very severely felt in the economic condition of the people, and is of course intensified by the difficulties of carriage. Wood, even for the purpose of making such simple articles of furniture as are needed in the daily life of the most primitive of populations, is practically not to be had, and men are put to strange straits accordingly. The ordinary dwellings of the people are formed of mud or wattles, usually without windows, owing to the scarcity of wood, and frequently without doors other than those of reeds. The general tone of the inhabitants is, of course, lowered, owing to the enforced discomfort of their homes, and so one thing reacts on another toward the degradation of the people, morally as well as physically. If it be true that the physical causes of this deterioration are for the most part natural, and therefore to a certain extent inevitable, it is no less true that the deterioration of both land and people has been materially aided, if not directly brought about, by the folly of the people themselves.

Nothing practically is known of the origin of the Chinese. They should not be classed with the so-called Mongols, but considered as more probably an offshoot of the great Malaysian family. The origin of this family dates back to geological rather than to historical times, and is anterior to the present distribution of continent and ocean. What is more, the continent of Asia in the later geological

ages extended far into the Pacific Ocean, and included not only the Malaysian Peninsula, but the islands of Sumatra, Java, Borneo, the Philippines, and probably Formosa. These lands were inhabited by at least two marked families of men, — the Melanesian negroes, and the Yellow Pareæan peoples. The latter included Indo-Chinese, Malaysians, and possibly Malays, as well as the inhabitants of China up to the thirtieth parallel of north latitude. The whole of northern China was then under water as far as the highlands of Mongolia, with the exception of certain islands, represented by the higher lands of Szechuan and parts of Shansi.

The Chinese as Chinese are thus an extremely ancient people. They were not of course called Chinese, that being a comparatively modern name, but consisted of many different races who by degrees have been conquered by the more northern peoples. Most of these conquests have taken place within historic times. The process is not yet completed, as remains of the aboriginal tribes are to be met with as far south as the present province of Fukien, and in many parts of Kwangsi, Yunnan, Kweichow, and Szechuan they still constitute the major part of the population.

It will thus be seen that the modern term of Mongolian, as applied to the people of China, is in every respect a misnomer, and has materially conduced to a misunderstanding of the entire Chinese question.

While the peoples inhabiting the China of to-day mainly derive their origin from a southern and eastern strain, the earliest inhabitants, of whom traces may be found in northern Asia, belonged to a distinct family of men who at one time seem to have extended over central and northern Europe, and for whom, following the lead of Herodotus, the title of Arimaspians may be suggested.

Of these the Huns, who during the fourth and fifth centuries overran the northern part of the Roman Empire, may be taken as typical representatives. They were swarthy and black-haired, with projecting eyebrows, round heads, high cheek-bones, flat faces, retreating foreheads, and little or no hair on the surface of their bodies or on their chins. They seem to have been divided into two main categories, — west were the Oghuz, in part the ancestors of the Turks; east the Ushwars, from whom descended, amongst others, the modern Manchus and Koreans.

Between the two, and reaching from the Danube as far east as the one hundred and twentieth meridian, was another of the great families of mankind, more distinctly differentiated perhaps than either. They constituted the great blond race by modern ethnographers classed under the general title of Aryans, a title in some respects as misleading as the other. The Aryans formed only a subsection of the family, which consisted of three main divisions, — the Aryans proper, with the subsection of the Iranians; the Sarmatians; and the Gothic or Getic people, with its subsection of the German tribes.

All these three, Malaysian, Arimaspian, and Aryan, have had their effect in moulding the great mass of humanity which makes up the Chinese nation of to-day. To understand this, one must go back to the very beginnings of history, or, indeed, beyond history proper, to the border land of myth. The original inhabitants of south China, so far as their family relations can be traced, belonged to what has elsewhere been called the Pareæan, with the intention of including under that term not only the southern Chinese, but the inhabitants of the Indo-Chinese Peninsula, and those extra-continental peoples who by some ethnographers have been called Indo-nesians, an objectionable

name in its way. But these people have been mixed even before the dawning of history with external tribes, Tibetans, or rather Himalayic, and Manyak (Mantsz). There seem traces also in the earliest traditions of the peoples of the Yangtse basin that some other strain, more or less remotely connected with the former Aryans of central Asia, must have sent offshoots as far as the great Yangtse delta.

The great Aryan irruption is of later date. The tradition survives in the Shu King in the K'enli, or conquest of Li. This resulted in the Limin (or Aryan men) occupying the lands of the northwest of China, where they formed several principalities, the chief of which was that of the Cheos. The story forms the main refrain of the so-called "Book of Odes," which were not "odes" at all, but were a selection from the old ballads of these tribes. This collection is due to the intense love for archæology possessed by Confucius, who was instrumental in recovering and handing down to posterity not only these ballads, but the annals of his native state Lu, forming now a part of Shantung. A close comparative study of the ballads shows not only that their original language and mythology were closely connected with those of the Sanscrit-speaking peoples of northwestern India, but also that their social status and their institutions were almost identical.

To trace these peoples still further one will have to go to a still older (in parts) record, the Zend Avesta, the scripture of the old Parsees. The opening chapter describes the happy realms of King Yi-ma, the Airyano Vaejo, situated on the upper waters of the Oxus and Jaxartes. Yi-ma became proud, and as a punishment was attacked by the Azhi Dahaka, the Oghuz tribes of northern Asia, who drove the original inhabitants from their ancient seats. There can still be traced many of them, —

the Geta, the ancestors of the Goths and the Germanic peoples; the Sarmatians, or Kimmerians, who form the majority of the Slavonic peoples of Russia, Bohemia, etc.; the Salyans who, as Hellenes, settled in ancient Greece; and the Iranians and Aryans who migrated to Persia and northwest India respectively. It was a branch of the last who, under the name of Cheos, settled in northwest China and gradually spread to southern China some fourteen to fifteen hundred years before Christ.

These last brought with them their language, their ideas of government, and their religion, and it was by them that civilization, such as is seen to-day, was introduced into China. They were probably few in number compared with the old Pareæan inhabitants, and they in consequence gradually lost their physical characteristics. Originally they were a fair-haired people, to which there are many allusions in the old ballads of the Book of Odes, but by admixture with the native tribes they gradually lost their distinctive features. How fair they were, and how advanced their art, the following lines closely translated from the ancient Book of Ballads will indicate: —

"Fair was her hair; in folds her garments hung —
All gem-embroidered o'er her shoulders flung.
Our lady bright, of Tsi's great house the pearl,
Fit bride, I ween, were she for Wei's proud earl.
Fairest of all amid her damsels fair,
Well mated with a prince of gifts so rare,
Companion fittest for a king.

"Taper her fingers as the sprouting leek;
Like clotted cream her swiftly mantling cheek;
Her shoulders fairer than the cynthia's sheath;
Than melon seeds more white her pearly teeth.
Her brow cicala-like; eyelashes fine
As silk moth's horns her orbs outline;
Well limned her sparkling eye."

The Shih Jen. Shi King, I. v. 3; st. 1, 2.

At first they called themselves Aryan men, but the descendants whose language had become corrupted pronounced this Lai man, and, forgetful of its old meaning, gradually transformed it into "black-haired man."

The Lis, modern Limin, were not, however, destined to be left in peace in the new land which they had made their home. Their old enemies, as has been seen, were known among the ancient Aryans as Azhi Dahaka, the "Gnawing Snake"; in the new land their memory is preserved in the name of Dik, by which they are known in the earliest Chinese records. Of these the most formidable tribe was that which in modern Chinese appears as the Hiung Nu, but which anciently called itself the Kara Nirus. From about 500 B.C. to 200 A.D. this people established an empire on the northwest of China, which contended with the settlers on equal terms, and more than once almost succeeded in crushing out the new Chinese civilization. These people were Turks of the purest type, and spoke a language closely allied to that of the Osmanlis of to-day.

These Turkish tribes, Oghuz and Ushwars in type, after the break-up of the great Chinese dynasty of Han, 220 A.D., when the Chinese Empire split into three or more contemporaneous states, short-lived and continually at strife among themselves, gradually obtained the ascendency, politically and socially, in northern China. In the southern portions of the Empire these dynasties continued to be ruled by more or less pure Chinese sovereigns, while in the north the foreign element became stronger and stronger. Toward the close of the fourth century the greater part of China is found submitting to the sway of a Turkish dynasty, known as the house of Tobar,— Tobar in Turkish meaning earth-sprung, aboriginal. This rule lasted until the close of the sixth century, and was instrumental in profoundly modifying the nation, its

cult, arts, and language. Modern China indeed may be said to have had its birth in the year 618 A.D., when a Chinese by name Li Shimin was instrumental in founding the dynasty of T'ang, placing, as according to Chinese principles of parental authority he was compelled to do, his father on the throne as Kao Tsu. Under the new rule China, practically as now known, was welded into one powerful state, for a time, until the rise of the Caliphs, the most powerful in the world. The influence of China, indeed, in the latter part of the seventh and the early part of the eighth century, was materially instrumental in checking the eastward spread of Mohammedan arms, which at that period seemed not unlikely to spread to the shores of the Yellow Sea.

All this while there was no mention of the Mongol state nor of the Mongol people. The first mention in history of the Mongols, according to Howarth, is during the T'ang dynasty in the seventh century. They were never a people in the ethnological sense, having been formed out of roving Arimaspian and Getic tribes by an outcast from the Wei Empire of northern China in the fourth century, who took the name in Chinese, of Mukula, which was pronounced by his followers as Mughul, the original form of modern Mongol. This sept first came into notice as the Jwan Jwan of the Chinese, the Avars of Gibbon, who after their defeat at the hands of the Tughul Turks in the sixth century emigrated to the steppes of southern Russia and grievously troubled the Greek Emperor of the day. With China they had little connection until the thirteenth century, when under their great leader Jenghiz Khan they attacked, and under his grandson finally conquered, China, where for one hundred years, 1260–1360, they formed the ruling race. They have left little impress on the land or people, and this is true with reference to

all the conquering tribes who have settled in China. They have been absorbed by the Chinese, adopting their manners, customs, and laws.

It may not be known to the general reader that in 1686 A.D., by an edict of the Emperor Kang-hi, all the ports of China were open to every nation which chose to visit them for trade, but were all closed again in 1709. In 1692 A.D., the Emperor Kang-hi also issued an edict tolerating the Christian religion. This was in consequence of the great persecution that the missionaries were subjected to by the mandarins. The report of the Board of Rites was most favourable to the character of all the Christians then resident in China. This report states that the Empire was indebted to them for the many and sincere efforts which they had rendered during the civil and foreign wars. Moreover, he adds, "the Europeans are tranquil, and they do not excite troubles in the provinces. Besides, this doctrine has nothing in common with the false and dangerous sects of the Empire, and their maxims do not lead people to sedition."

While the later policy of China has been one of exclusion, the earlier records prove that formerly China was in the van of progress, and eagerly welcomed foreign intercourse. In the early days of the Empire under the dynasty of the Hans, in the second century B.C., the great Emperor Wu Ti sent the celebrated traveller Chang K'ien to open communications with central Asia. The story has been told, but will bear repetition; it reads almost like a romance, as written down contemporaneously from the words of the traveller himself in the Shi-ki or "Historical Record," a work which has often been compared with that of Herodotus, except that for trustworthiness and historical acumen the Chinese book is immeasurably superior.

Along the north and northwest frontiers of the new Empire stretched the realm of the Hiung Nu Turks, at the time under the rule of a sultan called Maotun, a sovereign well fitted to rank amongst the great founders of empire. Half a century before, the Hiung Nu had conquered a people called the Yuehti, and had driven the remnant across the Pamirs into the land of Baktria, at the time under the rule of the successors of Alexander the Great. Here after some preliminary struggles they had coalesced with the Tokhars, had overcome the Greeks, and founded a new state, known in history as that of the Indo-Skyths. Wu Ti had conceived the design of opening communications with them and founding a formidable coalition against the Hiung Nu Turks. The envoy selected was Chang K'ien, who accordingly set out about 139 B.C. from Sacheo in Kansu. He was attended by an escort becoming his rank, but his attendants were attacked and either killed or dispersed, and Chang K'ien himself was taken prisoner by the Turks and held in detention for ten years. He was, however, treated with consideration, married a Turkish wife, and became a master in the language. His accounts of the manners and customs of these people have all the charm of first-hand authority. The vigilance of his keepers having become relaxed, he contrived to escape, and nothing daunted by the past, he determined to carry out the object of his mission. The first important place arrived at was Yarkand, which he found a prosperous city. The prestige of the Turks was, however, so strong that, although the leaders listened to him with interest, they declined to mix themselves up in any warlike enterprise. From there he proceeded to Kashgar with like results. From Kashgar, reversing the track of the Polos just fifteen hundred years later, he crossed the Pamir, and arrived amongst the

Yuehti, of whom he gave a highly interesting account, both political and ethnographical. Although his proposals were taken into favourable consideration, they were eventually declined from prudential motives. Every courtesy and consideration was shown to the envoy, and facilities were given for the collection of information of all sorts. From Baktria Chang K'ien went on to Parthia, with which powerful state he succeeded in opening diplomatic relations, which continued for many centuries, and were, indeed, only finally put an end to by the Mohammedan conquests in western Asia. In the time of the later Hans, in the first century A.D., the feats of Chang K'ien were equalled under the celebrated Pan C'hao, and his equally celebrated lieutenant, Kan Ying. Pan C'hao had conceived the idea of opening up communications with Rome herself, and Kan Ying had actually succeeded in getting as far on the route as Hormuz. Here, however, Parthian and Arabian jealousy came into play, and the shipmen on one pretext or another succeeded in preventing his embarkation.

In the southwest the Chinese were equally desirous of entering into relations with Burma and India, but met with petty obstructions, which, however, did not prevent eventually pretty close political relations being established. In 97 A.D., I find an embassy from the King of Ceylon arriving at court with presents of ivory, water buffaloes, and humped oxen, and in 120 A.D. another, accompanied by a number of conjurers from the West. They called themselves men of the western sea, Europeans, from Tatsin, *i.e.* Syria or the Roman Empire. In acknowledgment the Chinese Emperor conferred on the King of Ceylon the honorary rank of Tuwei, as in modern days Queen Victoria conferred on the Chinese minister, Lo Funglo, the honorary rank of K.C.B. It was also by

this route that about 60 A.D., Buddhism, in consequence of a dream of the Emperor Ming Ti, was first introduced into China. More directly, in 166 A.D., the Emperor Marcus Aurelius sent a commercial mission to China, which was repeated in the year 265 A.D.

Omitting the intervening dates, during which embassies were not infrequent from western Asia, I find in 1253 A.D. a mission arriving from Louis IX of France, but violent polemical discussions with Mohammedans and Nestorians caused it to be dismissed with the caustic reply: "God has given the Scriptures to the Christians. That holy Book does not permit them to vilify one another, nor for the sake of gain to abandon the paths of justice. Go and practise its precepts."

In 1260 A.D. two Venetian nobles, named Polo, visited China with a cargo of merchandise. They were well received by the Emperor Kublai Khan, who proposed sending back with them an ambassador to the Pope to induce the Pope to send him Christian instructors. The ambassador died on the journey.

In 1276 A.D. the two Venetians returned to China and were again well received. They brought letters from Gregory X. The son, young Marco Polo, became the confidant of the Emperor for seventeen years in various offices of trust. It was during this time that he acquired the information which was afterward put into book form and given to the world under the title of "Marco Polo's Travels in China," and which has been rendered invaluable to students of Chinese history by the annotations and notes of the late Sir Henry Yule.

Diplomatic relations between China and Portugal began in 1518 A.D., which resulted in the Portuguese settlement at Macao. In 1624 A.D. the Dutch gained a settlement on the island of Formosa, where the Chinese carried on an

extensive commerce with them. It was during the following year, 1625 A.D., that the Chinese Emperor T'ien K'i called to his aid the Christian missionaries and a number of Portuguese in repelling a Tartar invasion. The superior knowledge of these foreigners in the use of artillery enabled the Chinese to drive the Tartars temporarily away, but not until the invaders were within seven miles of Peking. Soon afterward the mother of the Emperor, his chief wife, eldest son, and twenty ladies of rank at court received Christian baptism. The Empress was baptized Helena.

While the preceding and subsequent intercourse between China and foreign nations was going on, the Chinese never departed from their policy of learning all they could without giving information about their Empire. But under the pressure of western civilization China is being gradually opened to foreign intercourse, until now it is not difficult to examine the machinery of the Chinese government and learn much of its mechanism. If the origin of the Chinese is still doubtful, the geography of the country they inhabit, and the laws by which they are governed have been made reasonably certain by the research of scholars.

NOTE. — I am indebted to T. W. Kingsmill, Esq., one of the best authorities on China, for the material information of this chapter, and it is pleasant to acknowledge his friendly interest in other regards.

CHAPTER II

GOVERNMENT

ACCORDING to the theory of the government of China the Emperor is an absolute ruler. His power over the lives and property of his subjects is unlimited. He disposes of all places in the Empire, and punishes as he may decree. He can appoint to, or remove from, office, impose taxes at will, confiscate or appropriate property without compensation, and there is no appeal against his decision. No other ruler possesses as despotic power over as many people, but there is no ruler who is more careful than the Emperor of China to use that power only as modified by the customs of his Empire.

In the administration of the affairs of the Empire the principle is recognized that laws are the particular institution of the legislator, while customs are the institution of a nation in general, and that nothing tends more to produce a revolution than an attempt to change a custom by a law. In a despotic empire there are generally but few laws that can be so called. There are manners and customs, and if these are overturned, the result may be a state of anarchy. The Emperors of China have respected and, more or less, been governed by the above maxim; and hence the government has been so reluctant to disregard the manners and customs of the people.

In view, therefore, of the fact that custom enters so materially as a determining factor into the administrative system of China, it is important to bear in mind the dis-

tinction between the unit of that system and the unit of the Chinese Empire.

Politically the government of China turns on the reciprocal duty of parents and children. The Emperor is the head of the government, but the family is its base, and it is not from the central head at Peking, but from the family unit that the building of the governmental fabric proceeds. In the family life may be seen the larger life of the Empire, and it is the family unit that gives the semblance of unity to the Empire.

It is to the single family that the number of families is added which makes the village, and it is from the group thus formed that a head-man (*ti-pao*) is selected by the inhabitants as practically the arbiter of disputes and the dispenser of justice. But the custom which gives to each village the privilege of selecting its own head-man, while it generally exempts such head-man from official interference, can still hold him accountable for the peaceful behaviour and order of the inhabitants of his village. Thus it appears that by the additions to the family unit a small principality, as it were, is formed, which custom has invested with the right of local self-government, and through that medium a democratic element is introduced.

As indicated, the inhabitants and head-men of villages are not beyond official influence, for it is sometimes required, after the head-man of a village has been selected, that he receive the confirmation of the district magistrate (*che-hien*) before entering upon his duties, and there are instances where the principal landowners have become security for the head-man's proper discharge of his functions. This precaution, taken by the district magistrate, is due to the fact that the duties of a head-man occasionally have relation to the government of the district, and it is an assistance to the magistrate to communicate with

him. When that necessity arises, the communication is addressed not directly to the head-man, but to him through the local constable (*po-t'ing*), and the constable and head-man are the medium through which any definite action may be taken and announced.

The family is the unit of the Empire, the district magistrate the unit of the administrative system and the beginning of the official hierarchy. From the village to the town is one step upward, and from the town to the district (*hien*) is another, a district usually including several villages and towns, and being in area about the size of the average English county.

Although the district (*hien*) is the lowest division of the administrative system, and the magistrate who presides over it is the lowest grade officer of the civil hierarchy, the district is nevertheless the most important division, and to a large majority of the people the magistrate is the embodiment of all the essentials of government. He is looked to, as the guardian and protector of the personal and property rights, with the degree of affection and confidence with which a son should look to his father. In Chinese official documents the district magistrate is frequently referred to as the father and mother of his people. And as the head of a household can make it happy or unhappy, according to his disposition, so the rule of a good or a bad magistrate promotes order or disorder among the people of his district.

The eighteen provinces of China proper are divided into thirteen hundred districts (*hiens*), but the duties pertaining to each district are not divided among separate officials, as is usual in western countries. The magistrate of a district is invested with both criminal and civil functions; he is the keeper of prisons, the overseer of the public roads, the registrar of land, the famine commissioner, and

the officer of education ; a catalogue of duties, and such a variety as unmistakably show the importance of this officer and his intimate relations to the people of a district.

While in theory the duties of a magistrate (*che-hien*) are not divided, and he is held directly responsible for their performance, yet in practice he has quite a staff of assistants; and the necessity for a large staff is evident. No one official could perform duties so numerous and varied without assistants. Of the assistants to the magistrate, the law secretary (*li-wan*) and the revenue secretary (*tu-she*) are the two most important. The next in importance are the official secretary and the correspondence secretary (*king-lih* and *chao-mao*), whose duty it is to draft despatches, reports, and other official documents, and after these two secretaries come the tax collectors. The duties of the numerous clerks about a magistrate's *yamen* are indicated by the divisions in which they respectively serve. The tenure of some of these is determined by that of the magistrate, but there are a few who continue in office through all changes. To enable the magistrate better to perform his duty as an educational officer, he is assisted by one or two educational mandarins, who are stationed in every district city, and by whom the primary examinations of candidates for the public service are conducted. Many of the subordinates of the magistrate, called expectant officials, derive their appointment from the central government and have the rank, in consequence, of mandarins, and are thus fitted by social standing to appear at the table of the magistrate himself. Among these subordinates, other than those previously mentioned, there are, in the judicial section, the assistant district magistrate (*hien ch'eng*), corresponding in some respects to an old county court judge, the deputy assistant magistrate (*chu pu*), and the sub-district deputy magistrate (*sem hien*),

who frequently live near the *hien yamen* if not in it. Their duties are minimized or increased according to the activity and cupidity of the district police inspector, who is also governor and superintendent of the district jail.

The district treasurer (*ku-ta-she*) advises the magistrate from time to time as to the state of the local exchequer and the trade in different parts of the district, so that at any time a new *likin* station may be set up and thus increase the money passing through official hands.

The educational duties are supervised by a director of studies (*kiao-yu*) and a sub-director of studies (*sem tao*), the more onerous part of whose duties it is to superintend the literary examinations and register the candidates entering for the same. They hold a sinecure post as curators of the temples of Confucius and of Wisdom and Learning, and as searchers of the classics.

There are also attached to the district salt departments seven petty officials, but these do not act as checks upon each other. They are: (1) assistant salt controller (*yun-tung*), who may often be the district treasurer as well; (2) deputy assistant salt controller (*yun-fu*); (3) salt department inspector (*ti ku*); (4) sub-assistant salt controller (*yun-pau*); (5) salt department receiver (*yenko-sze-ta-she*); (6) salt department examiner (*pi-yen-so-ta-she*); and (7) the unclassed examiner of the joint salt and tea departments (*yen-ch'a-ta-she*). Each of these is supposed to keep accurate checks of the salt transactions, but a search through the archives of a district *yamen* would not reveal a return of one-tenth of the salt transactions that pass through the palms of these officials.

The *yamen* runners are an anomalous body, made up of detectives, constabulary, *yamen* messengers, and barrators.

After the district comes the department or prefecture

(*fu*), which is the second territorial division for administrative purposes. The department includes several districts, and is presided over by an officer known as the prefect. There are now about one hundred and eighty departments, but these vary in size, though the average throughout the eighteen provinces is about six districts to a department. The department is the earliest division of the administrative system, and the civilian who stands at the head of it may be addressed as the judge, or as the prefect (*che-fu*). The official residence of the prefect is in a subject district city, which is then known as the departmental city (*fu*). The prefectural office is the court of appeal for suitors from the district magistrate. The prefect (*che-fu*) seldom decides any of these cases himself, but shifts such duties on to the first-class assistant department magistrate (*chow tung*), who answers in some degree to the British high sheriff, and the second-class assistant department magistrate (*chow pan*), who may be likened to the deputy sheriff, each with magisterial power. Then comes the prefectural jail governor and controller of police (*li-muh*), who acts as crown prosecutor and in subordinate sheriffal functions.

The third territorial division for administrative purposes is the circuit, which is formed by the grouping together of several departments. There are about eighty circuits, and each is presided over by an officer whom the Chinese designate as intendant of circuit (*fen sun tao* or *taotai*), but who is better known to foreigners as the *tao-tai*. To the intendant of circuit appeals lie from the departmental courts, but customarily the intendant performs very few judicial or fiscal duties, being rather a superintending administrator of general affairs. This officer usually resides in one of the departmental cities, unless such be outstripped in wealth and population by one

of the district cities, in which case the official residence is in the latter. The more important are those which include the treaty ports. As stated, the intendant is known to foreigners as the *taotai*, and the foreign consuls at the treaty ports communicate with the *taotai* on subjects relating to foreign business, or when there arise issues between their compatriots and the Chinese. The intendant is the lowest official exercising a direct *ex-officio* authority over the military in the event of local risings, but he is a very important officer in connection with foreign affairs at the treaty ports, and has it in his power to facilitate or delay the commercial interests at such a port. At the port of Shanghai there is a mixed court in which a Chinese magistrate and a foreign consular official preside, and appeals lie from that court to the *taotai's* court, but when the *taotai* sits judicially, a foreign consul-general sits with him "in the interest of justice and to watch the proceedings."

A further territorial division for administrative purposes is the province (*sheng*). It has been stated that there are eighteen provinces constituting China proper, over each of which an officer presides with the title of governor (*sun-fu*). The governor is the manager of all the affairs of a province on behalf of the central government. His official residence is in the chief city of the province, which is then called the provincial capital. Immediately under the governor there are five officials whose authority extends to all parts of the province, but only in matters relating to that branch of public business with which each is officially intrusted. These are the superintendent of provincial finances (*fan-tai*), the provincial criminal judge, the provincial educational examiner, the salt controller (*yen-yung she-sze*), and the grain intendant (*liang-tao*). These, with the governor, form the bureau of provincial administration. The superin-

tendent of provincial finances, or provincial treasurer, receives the taxes from the district magistrates, and accounts for them to the governor first, and then to the fiscal board at Peking. He is financial commissioner, lieutenant-governor, head of the provincial civil service, and treasurer of the provincial exchequer. To the provincial criminal judges (*ngan-cha she-sze*) the district magistrates deliver all criminals sentenced by them to banishment or death, whose cases are then reëxamined and reports made first to the governor, and then to the criminal board at Peking. The provincial educational examiner visits the departmental cities in the province at stated periods and, with the aid of the prefect, conducts, in the examination hall, the last of the series of primary examinations, after which a legally fixed number of candidates from the district attain the lowest or highest degree. The provincial educational examiner corresponds with the ritual and educational board in Peking, but his correspondence, as well as that of the other two officials named above, is of a routine and formal nature ; and they do not communicate at all with either the Cabinet Council or the Emperor.

The territorial divisions which have been described will appear to have been arranged to supply the governor (*sun-fu*) with a sufficient number of judicial administrative officials to transact all the business within his jurisdiction. The provincial capital being in the chief city of a department, with the common boundary lines of two, and sometimes three, contiguous districts running through it, the governor is thus placed in a favourable geographical position also for the convenient transaction of provincial business. As the district magistrate (*che-hien*) is the last connecting link between the throne and the people, so the governor (*sun-fu*) is the essential link between the central and the administrative system.

Up to about three hundred years ago the governor was the officer of highest rank in a province, but subsequently two or more provinces have been united under the executive authority of an officer styled the governor-general (*tsung-tuh*), but better known to foreigners as the viceroy. The grade of a viceroy is a shade higher than that of a governor, though he is not always regarded as the superior official, for in many instances neither of the two can move without "moving" for the consent of the other. Both are cautious in issuing commands, and when a command is issued, it is usually qualified with the words: "But you will at the same time await the instructions of his Excellency the Governor," or "his Excellency the Viceroy," as the case may be. The same caution is used when the viceroy and the governor jointly memorialize the Emperor. Both may join in the memorial, but if the subject of it is one of great delicacy, and there should be doubt as to how it might be viewed by the Emperor, the drafter and signer are distinguished thus: "I may add that your servant the Viceroy," or "your servant the Governor, is the drafter of this memorial." If either the viceroy or the governor is a Manchu, the word "slave" is used instead of "servant" in referring to such official. The governor-general is *ex officio* a president of the Board of War and a junior president of the Court of Censors.

In theory and in practice the viceroy is really the superior of the governor, and it is seldom that the latter antagonizes the wishes of the former. In a few of the provinces the viceroy administers affairs without the intervention of the governor. The province of Chili, for example, is under the direct and exclusive administration of a viceroy. At Nanking and Canton the viceroys of the provinces in which those cities are situated supervise the salt gabelle, have control of the military

affairs, and are the responsible agents for informing the central government on subjects bearing on the relations between China and western nations. To assist the viceroy in his various duties there is a special bureau (*yung wuh chi*) of the nature of a military secretariat, and his personal staff consists of an adjutant (*chung hun*) with military rank, and a body of subordinate officers, military (*wun sun pu*) and civil (*wen sun pu*), whose duties are more or less clerical.

The main idea that runs throughout the entire provincial organization is that each province exists as an independent unit and is sufficient unto itself. There is a resemblance between the provinces of China and the states of the American union under the Articles of Confederation, and for practical purposes the provinces are as self-existent as were the states under those articles. The government of a province, like that of a village, is uniformly free from outside interference. In its administrative orbit the movement is autonomous. The whole machinery of the provincial government, educational, fiscal, penal, and judicial, is practically independent. Under the authority of the governor, the revenue of the province is administered, its defence is provided for, competitive examinations are held, and other functions of government are exercised. The central government refuses to interfere and is silent, except when in a critical mood. It is seldom that a viceroy, although the superior colleague of a governor, takes part in the provincial administration. But there is a military governor for each province, a feature copied from the Manchurian provincial system, and known as the Tartarate organization. It is this organization which specially appertains to the Manchu dynasty, and in every province of the Empire there has been placed a military official of the nationality of the dynasty, whose

rank the imperial edicts recognize as the first in grade, such edicts being addressed to the Tartar general, the governor-general, and the governor.

The appointment of the officers of the Empire is the prerogative of the Emperor, but after a governor has been appointed over a province, if he is reasonably prompt in paying the requisition made against his province, and in preserving the peace therein, he need not apprehend interference by the central authority. And as a governor has the privilege of memorializing the Emperor in his own name, and therefore of directly reporting upon the conduct of the subordinate officials, his authority in the province is admittedly supreme for the ends of practical administration.

In the outline presented of the territorial administrative system, the military establishments of the provinces have not been fully referred to. There is a military establishment in each province, as well as a civil and educational one, and although the higher civil officials may in a certain degree take cognizance of military affairs, yet the military establishment is under the command of the Tartar general of the province. The rank of the Tartar general is equal to that of the viceroy and may be a shade higher, as this military official is a check on the viceroy and enjoys the privilege of writing direct to the Cabinet Council of the Emperor. If it be remembered that the reigning family in China is Manchu, it is obvious that the object in placing a Tartar general in each province, and making him supreme in military affairs, is to safeguard the interest and influence of that family.

The administration of the central government is intrusted to two councils. The one is the Grand Secretariat (*Nui Koh*), and the other the Grand Council (*Kiun Ki Ch'u*). Each of these councils has its president, its vice-

president, and subsidiary boards concerned with the management of separate departments.

The Grand Secretariat, or Imperial Cabinet (*Nui Koh*), is of greater antiquity than the Grand Council, and continued the most important division during early times. It is composed of four members (*ta-hioh-she*), two being Manchus and two Chinese, with one Manchu and one Chinese assistant secretary. As aids, there are ten learned men selected from the Hanlin College, with the addition of about two hundred secretaries selected at pleasure. The duties of the Grand Secretariat are such that the members sustain the closest official relations to the Emperor. They submit to him all papers relating to the affairs of the Empire, and receive from him necessary instructions in accordance with which official edicts are prepared. They keep the seals used by the departments and for documents, and are the officials whom the Emperor most frequently consults and in whom he chiefly confides. Their duties are to deliberate on affairs of state, to declare the imperial will, and to aid the Emperor in governing his subjects.

The Grand Council or Imperial Privy Council (*Kiun Ki Ch'u*), of later date than the Grand Secretariat, was provided for in 1730. The members are generally chosen from among those of the Grand Secretariat, the presidents and vice-presidents of the boards, and the principal officers of all the courts in the city. It is before the Grand Council that the heads of the departments appear when the Emperor is to be consulted. It is less ornamental than the Grand Secretariat, but now more important, having more onerous duties to discharge, and, at times, framing the edicts for the imperial signature. When the Grand Council was formed, the intention was to make it a far more numerous body than it has ever been, but the inten-

tion was abandoned, because it was thought that fewer members would oftener speak with one voice, which would give it more influence. At present there are five members (*Kiun Ki Ta Ch'en*), who also hold other substantive offices, and sixty secretaries (*chang king*). In theory both the Grand Secretariat and the Grand Council have daily audiences with the Emperor. Practically such audiences are necessary to facilitate the transaction of business, and in recent times the Grand Council has superseded the Grand Secretariat in business importance, and has become the imperial chancery or court of appeals. Under the two councils there are six administrative boards (*sin pu*). Each board has an organized staff of clerks and is otherwise equipped for the business it was formed to transact.

The Civil Board (*Li Pū*) has jurisdiction over the mandarin or official class, appointing and discharging them, regulating their duties, pay, promotion, the assignment of work, and the granting of leave. Whenever the Emperor confers posthumous honours or rewards, they are distributed by this board.

The Board of Revenue (*Hu Pu*), as its name implies, receives the contributions from the provinces and disburses the payments of the administration. It is this board which exercises the confidential prerogative of ascertaining the names of the Manchu women who are eligible for the imperial harem. It combines the functions of collecting money and selecting women, which naturally give it a peculiar influence and a far-reaching importance. This board has about fourteen subordinate departments to assist in the supervision of the revenue of the provinces.

The Board of Rites (*Li Pu*) is probably the most important in this branch of the administrative system. The supervision of the ceremonial and ritual observances, which form a distinguishing feature of the national character,

constitutes the main function of this board. The Book of Rites contains fourteen volumes and is the statutory law for the board. The ceremony for feast days is minutely provided for, and even the cut of a court jacket is strictly described, as well as the etiquette relating to subjects of a military and civil character. There is no act or omission that will bring a Chinese official so quickly under censure as to be careless in official ceremony. On court occasions or when the Emperor is travelling, to violate any requirement of the Book of Rites invariably results in the dismissal of the offending officer.

The Board of War (*Ping Pu*) should be among the first in importance, but it has never succeeded in preparing the Empire for defence against external foes. Owing to the peculiar autonomy of the provinces, each having its own military organization, when it has any at all, the board is in great measure precluded from extending its authority with the view of centralizing the military system. The garrison at Peking is a distinct military organization, independent of the control of the board, as is also the banner army of the Manchus and Mongols. The board appears powerless to organize an effective army. There is no uniform system, no single idea governing, — there is, in fact, an entire absence of coöperation. During the several years preceding the China-Japan War, China expended millions of dollars to equip an army and a navy, but when the war was declared and the result of the vast expenditure put to the test, it was proved wholly ineffectual. It was not because military material was wanting in the Chinese character, but because there was no organization, no rallying-point in the military system, no one directing mind, no confidence on the part of the soldier in his superior officers. Before there can ever be a military organization in China deserving the name, there must be a thorough change in the very thought

and habits of the Chinese. And how can China have an organized army when the Board of Rites can intervene and prescribe the discipline and etiquette of the military forces?

The Board of Punishment (*Hing Pu*) might be more aptly called the court of appeal. With the Board of Punishment are associated at certain periods of the year the censors and the court of revision, and when the three are combined, they form a supreme court for the cognizance of capital offences. At other periods of the year there are six minor courts associated, and this association forms the judicial bench at Peking for revising the punishments adjudged in the provinces before these are submitted to the Emperor for his approval. This board marks all changes made in the written law and the supplementary enactments, and prepares all new editions of the Penal Code for publication, regulates prisons, and has attached to it a treasury which is supplied by fines on jailers and others.

The Public Works and expenses are prerogatives of the Board of Works (*Kung Pu*). Whatever relates to plans for buildings of wood or earth, to the form of useful instruments, to the law for stopping up and opening channels, and to ordinances for constructing the mausoleums and temples, and to the mint, is under the government of the Board of Works, directed by two vice-presidents (*she-lang*) with two subordinate superintendents. The duties of the board are miscellaneous, but nowhere in China does it seem that the board is energetic and observant in attending to its duties. No city in the world could be in a worse sanitary condition than Peking, where the board sits, and in travelling in China it is easy to see that no attention is given to the repair of the highways by land and water. The Grand Canal, a monument of Chinese skill and industry, has been neglected to the

extent of greatly impairing its usefulness and defeating measurably the object of the comprehensive mind that conceived its necessity as a means of advantage to the people. The masonry that once lined its sides for miles and made the canal a thing of beauty as well as usefulness has fallen away, and the granite blocks are boated off and sold at liberty. During the two hundred years and more the Tartars have ruled China the roads, bridges, and canals have been shamefully neglected. The casual observer who makes a trip to the interior of the Empire sees all around him the evidences of decay in those works which, under native rulers, showed the perfection of mechanical skill.

Before 1860 there was no department of the government of China charged with the transaction of business relating to intercourse with foreign nations. It was not the policy of the present dynasty of China to have any such intercourse, but, on the contrary, to avoid and discourage it. The pressure of events, however, compelled the abandonment of this exclusive policy, and in 1860 a special council memorialized the Emperor upon deciding how foreign affairs should be conducted and upon providing for a department to that end. In consequence of the memorial a decree was issued, in January, 1861, commanding the formation of the department so generally known to foreign governments as the *Tsung-li Yamen*. Notwithstanding the decree, the unwillingness to depart from the cherished policy of exclusion is made plain by the constitution of this new department, which is not so much a separate organization as the colour of a cabinet formed by the admission of members of other departments. The unwillingness is emphasized by the fact that for thirty years after the organization of the *Tsung-li Yamen* its name does not appear in the official records of the Chinese government. When first organized, the *Tsung-li Yamen*

consisted of three members, but soon afterward another was admitted, until subsequent admissions raised the number to eleven. This department is closely identified with the Grand Council, and some of the members of the latter are also members of the former. As the *taotai* of a circuit is in closer official relationship with foreign officials than any other officer of the provincial administration, so in the central administration the *Tsung-li Yamen* is the department with which the foreign ministers at Peking conduct business on all subjects relating to intercourse between China and their respective countries. The name of the *Tsung-li Yamen* has been changed to that of the *Wai Wu Pu* as more significant of the cause of its origin and scope.

It is possible that in theory the system of balances and checks, which obtains between the departments of the central and provincial governments, has been thought out and applied with unsurpassed acuteness, for there is no government in which there is more interdependence, checking important action by one department without the coöperation of other departments.

In outlining the duties of the Board of War it was indicated that the garrison at Peking is a distinct military organization independent of the jurisdiction of the board. The same principle of independent organization applies to the civil government of the capital. Although Peking is situated within the province of Chili, over which a viceroy rules without having to recognize a governor as a colleague, there is a civil government for Peking just as the District of Columbia creates a special sphere for Washington City outside of Maryland and Virginia. This is also the case with reference to the northern or mountainous half of Chili which lies beyond the Great Wall and which is under the superintendency of Jehol and the military governor of

Chengte-fu. The district of Peking and that lying beyond the Great Wall are strongly Mongol and bear such a relation to China as does Algiers to France or Poland to Russia. There are no special regulations provided for the government of the dependent territories of Mongolia and Tibet, nor for the aboriginal tribes scattered along certain parts of the frontier of the Empire. The region to the north of the Great Wall of China, as far as the forty-second parallel, and from the Yin Shan range on the west to the Palisade on the east, though originally Mongolian and ruled by Mongolian princes, has become Chinese, and for the purpose of administration has been sectionally added to Shansi and Chili. These new parts of the Chinese system have the Mongol, the Manchu, and the Chinese rule of administration. The central Chinese authority has no direct control over the local Mongol inhabitants, who are tried by their own Mongol officers when offending against the law.

There remains at present no trace of the once famous Mongolian army as a regular force. Among this nomadic people there is a clanship with some of the essential elements of feudalism, as the Mongol princes have body-guards, numbering from two hundred to two thousand, according to their respective wealth and the necessities for the protection of their palaces. The Chinese and Manchu officials, civil and military, deal only with Chinese settlers, and fill the office of policemen and tax collectors among the colonists.

Manchuria is the ancestral home of the dynasty that now rules China. It is attracting world-wide attention because of the war between Japan and Russia, but before the war began mercantile ventures were fast bringing it under the keen eye of business. The facilities for trade and the perseverance of the modern merchant disclosed the invit-

ing business possibilities of Manchuria long before the Russians and the Japanese pitched their military tents in its fertile plains and along its mineral mountain sides. In this connection a special reference to the government of the three provinces into which Manchuria is divided, will be in order.

The provinces are known in Chinese as the three eastern provinces (*Tung San Sheng*). The two most northerly of these provinces, Heh-lung-kiang, or Tsitsihar, and Kirin, are organized upon a dominating military basis, while the southern province, Sheng King, which includes the Manchu capital, Mukden or, in Chinese, Feng-t'ien, approximates in its administration nearer to the government of the eighteen provinces of China proper. This southern province is governed for the Emperor by five boards at Mukden, instead of six as at Peking. Each of these boards is presided over by a vice-president who, in his own special department, is a colleague of the head of the province, the governor or Tartar general (*tsiang kun*). In theory such is the system of the government of Manchuria, but in practice the Tartar general, as the military head, has never given up the supreme control, and the real authority over the five boards is centred in him. But the Tartar general does not often interfere with the boards in their administration of matters of a civil nature. It is only when such matters clash with his military functions that he exercises his supreme authority. His rank entitles him to rights and dignities similar to those pertaining to the office of viceroy in China proper, and to others somewhat higher. No troops can move into or out of Manchuria proper without the consent of the Tartar general, unless by the express direction of the Emperor, the military organization being distinct from that of China. It is composed of about two thousand Chinese

and forty thousand Manchus, and officered mostly by Chinese princes. These officers are: lieutenant-general (*tu tung*); deputy lieutenant-general (*fu tu tung*); adjutant (*yin wu tsan-ling*); colonel (*hiao-ki tsan-ling*); lieutenant-colonel (*fu hiao-ki tsan-ling*); adjutant (*yin wu chang king*); assistant adjutant (*wei yin wu chang king*), usually selected from among the lieutenants; captain (*tso-ling*), generally a hereditary position; lieutenant (*hiao-ki-hiao*); and sub-lieutenant (*wei shu hiao-ki-hiao*).

The civil administrative and executive departments are a shade different from those of China proper, and this difference may be attributed to the desire and natural pride of the dynasty in maintaining the dignity of the clan of its birth.

The first most striking difference is the increased power of the governor-general over that of his prototype in the eighteen provinces. Then there is the elimination of the Board of Civil Rites, whose duties have been delegated to the Board of War, a significant indication of the value placed upon civil rights in the realm of military environment.

The civil governor (*fu yin*) has not the power of his namesake in the eighteen provinces. Under the civil governor there is a civil vice-governor (*fu cheng*), who is practically without power, but *ex-officio* provincial examiner in literary examinations. Coequal with the civil governor, in power at least, is the divisional commander or military deputy lieutenant-governor, probably one of the hardest-worked officials in the provinces. In his duties he is assisted by the various garrison commandants or military commandants (*cheng show yu*), who administer military law, disburse military funds, and maintain the peace in these districts, but do not interfere with ordinary civil affairs. These are left to the local vice-

presidents or deputy vice-presidents of the five boards (*Wu Pu*), acting as colleagues of the military commandant. The second-class military commandant (*fang show yu*) looks after the military administration within the garrison alone.

As in China proper each province is supposed to be divided into prefectures (*fu*); independent sub-prefectures (*ting*); independent departments (*chili chow*); departments under a prefecture (*chow*), and districts (*hien*) subject to a prefecture or an independent sub-prefecture. But this subdivision does not exist for practical purposes in the two northern provinces and, to a limited extent only, in the southern. The city of Mukden is not under a *che-fu* as would be the case in China, but an official of greater dignity and similar duties, called *fu yuen*, coöperates with one of the board of the metropolitan department. Even the *chow* and *hien* officials enjoy a more dignified position than such officers in China. There is this peculiar similarity, however, in official life, both civil and military, in Manchuria and China, and that is the invariable tendency to shift duties and responsibilities on subordinate officials.

From the foregoing it will be seen that the civil element of government is slower in entering into the Manchurian system which, in the beginning, was founded purely on the military unit, as contradistinguished from that of China, which, as has been pointed out, is based on the family unit, the civil idea. The needs of the government of China were so pressing that, in 1876, the administrative ordinance of that year was introduced in a practical manner into the Manchurian administrative system. As the result of the introduction of the ordinance of 1876, Manchuria now has civil *yamens* and customs-collecting stations, and the wealthy merchants and prosperous

farmers are experiencing some of the burdens of government. But this civil element has been so ingeniously introduced as not to cause friction. It shows that the Chinese are not only absorbing the Manchus with their customs, but are gradually supplanting the system of government to which the Manchus owe their authority in China.

As there are in theory checks of a more or less general character on all the departments of the central and provincial governments, which tend to make one dependent upon the other, and which prevent any very important action without coöperation, there is also in theory one check upon the whole system of government, and this check was intended to be absolutely free from all influences.

There are about fifty-six men distributed throughout the Empire and privileged to inquire into and report direct to the Emperor upon whatever may impress them as not comporting with dignity and justice in the administration of the government. These men are the censors of the Empire. They hold their positions for life. They are not allowed to hold any other office nor to enjoy emoluments other than such as strictly pertain to their own positions. When they have accepted employment as censors, they cannot change it for any other, however advantageous the preferment, and it is intended that thus all temptation may be removed. They scrutinize the private and public lives of all the officials, and that of the Emperor is not exempt from their scrutiny. These censors can be very troublesome when so inclined. Although the Emperor is absolute, he would think carefully before he ventured to interfere with a censor in the discharge of his duty. Even should a censor look into the imperial sanctum, and confront the Emperor himself with a memo-

rial in which his social and official failures were set forth, it would probably be prudent for the imperial authority not to undertake any very serious act of resentment. By the fundamental organism of the Empire a censor is exempt from punishment, though there are instances where some have been not only suspended and discharged for a too-searching inquiry and the exercise of too great a freedom in reporting results, but have disappeared mysteriously. During the rule of the present Dowager Empress more than one censor has had quite an uncomfortable experience when venturing too far upon the freedom of his office. In fact, the Dowager Empress has her own way about "things Chinese," and when she decrees, the whole of China obeys. She often appears to be about the only man in China.

In the beginning of this chapter, I wrote that the Emperor Hwang Li of China was an absolute ruler, but after describing the machinery of the Chinese government, a fuller reference to the power of the Emperor and the restrictions which custom has placed upon that power, will illustrate the force of public opinion in this despotic government.

It is believed that the Chinese have an authentic political history of more than four thousand years, but in the national mind the Emperor does not appear as a sovereign by divine right. True, he is known to his subjects as the son of heaven, and his authority is unlimited, except by divine right, but in the history of China it is taught that no one has a hereditary divine right to the throne. Both in theory and practice the primary claim to the successorship is given by the deathbed or the testamentary nomination of the reigning sovereign, and it is not positively known during the reign of any one sovereign who will be his successor. It is recorded that in the two great his-

torical musters, the revered ancient monarchs, Yao and Shun, each passed over his own son, because accounted unworthy, and nominated a stranger. If an Emperor wishes to establish his divine right, he must prove it by his good works; he must govern in accordance with the principles taught in the writings of the sages, or his subjects reserve the right to replace him by a successor who will.

A high authority states that the Chinese had never heard of the name "republic" before their intercourse with the Hollanders. They could not comprehend how a state could be properly governed without a king, and even now there is not a word or character in the Chinese language which means or stands for liberty. But while opposed to a republican form of government, it must not be inferred that the Chinese will tolerate tyranny or oppression. They confer upon their Emperor absolute power, but argue that when they are oppressed, it does not proceed from the absolute power of the Emperor, but rather from a want of proper appreciation of his high duties, and that when the Emperor is thus guilty, they are under no obligation to countenance or obey him. The Chinese say that the obligations to govern justly and to obey loyally are reciprocal, and they have no such conscientious scruples about deposing a bad Emperor as a respectable number of intelligent Englishmen manifested about deposing James II.

As all places in the Empire are at the disposal of the Emperor, and as he can impose taxes at will, such powers logically include all others which a ruler could conceive necessary for administrative purposes; but a few in particular may be named.

The Emperor (*Hwang Li*) has the right to make peace and to declare war, he is the judge of the conditions upon

which treaties may be made, and his judgments are irrevocable; all sentences for offences are subject to the approval of the Emperor, but the authority to inflict punishment for minor offences is delegated to subordinate officials. He can honour or disgrace a subject before or after death, he can either reward or punish a subject, and, after death, can visit upon the family the punishment that would have been visited upon the subject had he been alive. He may change the figure and character of letters, or abolish any character already received, or form a new one. He may change the names of provinces, of cities, or of families, and may forbid the using of any expression or manner of speaking, and bring into use new expressions and manners of speaking.

But the unlimited power with which the Emperor is invested is oftener used judiciously than otherwise. There are pages in China's history showing that this power has been abused, but they are the exception and not the rule. Of course what is here meant by judicious use has reference to what the people in China have approved and to what they have disapproved, and with such a standard for comparison the ill use of the imperial authority, when indulged in, has not continued long.

In examining the maxims which long usage and custom have made the guide of the Emperors in the administration of affairs, the governing idea in the Chinese mind seems to have been that it was safer for the general interest to put an Emperor on his good behaviour, and cause him to feel that the respect which he showed for himself would be the measure of the respect which his subjects would show for him. The old lawgivers have, therefore, from the foundation of the Empire, made it a first maxim that the Emperor was the father of his people, and not a master placed on the throne to be served by slaves. An Emperor

may be a great warrior, an able politician, and a learned prince, but these and similar qualities do not fix him in the affection of his subjects by any means as surely and firmly as governing benevolently and justly.

If the Emperor should fail in what his subjects may consider his proper self-respect, they have the right to petition to him and to remind him of his error; the only condition is that the petition be worded in respectful language. The right of petition is further guaranteed when the Emperor departs in his administration from the customs and laws of the Empire. After pledging his loyalty, the petitioner begs that the Emperor will reflect upon the ancient customs and laws and the examples of his predecessors, and he proceeds to note wherein he apprehends they have been deviated from. There is an obligation upon the Emperor to read the petition, and if there is no change in the administration, the reminder may be repeated.

There are examples where the persistency of the petitioner has so incensed the Emperor that he has ordered him to be killed, and although the order, as is the case with other orders of the Emperor, has been carried out, the examples are few, because such proofs of unwillingness to be advised destroy the confidence and respect of his subjects. The history of China evidences that the agency of a petition, in redress of grievances and setting forth wrongs, is a potent means of recalling Emperors from acts of remissness to a return to duty.

Another restraint upon the Emperor is the manner in which his personal history is written. There are a certain number of men who are selected for their learning and impartiality, whose duty it is to write down daily, with all possible exactness, the words and

acts of the Emperor and everything that occurs in his administration. These men have no communication with each other with reference to their respective duties. At the close of each day each one writes on a separate sheet of paper whatever may have come under his observation of the words and acts of the Emperor, and the sheets are deposited through a chink into an office set apart for the purpose. The virtues and faults of the Emperor are recorded with the same liberality. As an example: "Such a day the Emperor's behaviour was unreasonable and intemperate, and he spoke after a manner which did not become his dignity. The punishment which he inflicted upon a certain officer was rather the effect of his passion than the result of his justice. In such an affair he stopped the sword of justice and partially abrogated the sentence passed by the magistrate," or else "he entered courageously into a war for the defence of his people and for the maintenance of the honour of his Kingdom. At such a time he made an honourable peace. He gave such and such marks of love for his people. Notwithstanding the commendations given him by his flatterers, he was not puffed up, but behaved himself moderately, and his words were tempered with all the sweetness and humility possible, which made him more loved and admired than ever."

That the daily histories may not be biassed by either fear or hope in the account they give, the office into which the sheets of paper are deposited is not opened during the life of the Emperor or while any of his family occupy the throne. It is when the crown goes into another line that the sheets are gathered together and compared, and from them is compiled the history of the Emperor and his reign. If he has acted with virtue and wisdom in his private and public life, he appears in the history of the Empire as a worthy example for his suc-

cessors, but if negligent of his own duty and the good of the people, he is exposed as the object of common censure and odium.

Although the Emperor is designated in Chinese history as the son of heaven, he must, in order that his subjects may recognize his divine commission, govern with rectitude and goodness, or his subjects conclude that heaven has withdrawn the commission and released them from their loyalty.

"The internal arrangements of the imperial court are modelled somewhat after those of the boards, the general supervision being under the direction of the imperial household *Nui-wu-fu*, composed of a president or comptroller (*Tsung Kwan Ta Che'n*) and six assessors, under whom are seven subordinate departments. It is the duty of these officers to attend upon the Emperor and Empress at sacrifice, and conduct the ladies of the harem to and from the palace; they oversee the households of the sons of the Emperor, and direct, under his Majesty, everything belonging to the palace and whatever appertains to its supplies and the care of the imperial guard. The seven departments are arranged so as to bear no little resemblance to a miniature state: one, the Treasury of Privy Purse (*Kwang-Chu-Sze*), supplies food and raiment; a second, the Department of Imperial Body-guard (*She-Wei-Ch'u*), is for defence, to regulate the body-guard when the Emperor travels; the third, the Office of Ceremony (*Chang I Sze*), attends to the etiquette the members of his great family must observe toward each other, and brings forward the inmates of the harem (*Ta Ying* and *Ch'ang T'sai*) when the Emperor seated in the inner hall of audience receives their homage, led by the Empress herself; a fourth, the Department of Collectorate (*Hwei-Ki-Sze*), selects ladies to fill the harem, and collects the

revenue from the crown lands; a fifth, the Office of Works Department (*Ying Tsao Sze*), superintends all repairs necessary in the palace and sees that the streets of the city are cleared whenever the Emperor, Empress, or any of the women or children in the palace wish to go out; a sixth, the Department of Pasturage (*King Feng Sze*), has in charge the herds and flocks of the Emperor; and the last is a Court or Judicial Department (*Shen Hing Sze*) for punishing the crimes of soldiers, eunuchs, and others attached to the palace." (Williams.)

From the Emperor to the imperial clansmen (*Tsung Shih*) and nobility is but a step, and these are influential in the government and the main prop of the throne. The reigning family is not, as has been stated, native to China. It was founded in 1583–1615 A.D. by Hien Tsu, a Manchu, and all included in the imperial clan are his descendants or connections. There is a clansmen's court which controls the imperial clan and regulates whatever belongs to the government of the Emperor's kindred.

The kindred of the Emperor are divided into two branches; the direct comprises the lineal descendants (*Tsung Shih*), the collateral (*Kioh-lo*) includes children of uncles and brothers, the distinguishing mark being a yellow girdle for the imperial house and a red girdle for the collateral. The collateral branch is called the Gioro line, represented by the chiefs of the eight Manchu families who aided in settling the crown in that line and are hereditary princes, collectively called Princes of the Iron Crown.

The titular nobility is not founded upon landed estate or the ownership of land, and the title does not confer power, but is more of an ornament to please and gratify vanity. There are twelve orders of nobility which are conferred

solely on members of the imperial house or clan. It was the custom at one time for the nobility to reside away from the capital, and to curtail their influence they were paid a salary at stated periods. They were also restricted from engaging in business, but the custom is no longer enforced.

There are some ancient orders of nobility which are highly prized as marks of honour because conferred without distinction on Manchu, Mongol, and Chinese, civil and military, and as a recognition of merit. There are only two perpetual titles of nobility, and these belong to the direct descendants of Confucius and Koxinga. That of Confucius is the "Ever-sacred Duke," that of Koxinga the "Sea-quelling Duke." Confucius owes his title to his writings, which have instructed and influenced a greater number of minds than the writings of any other man. They have stood the test of centuries of criticism and are to-day the basis of Chinese law and the classic of Chinese scholars. The efforts of Koxinga to save China from wearing the yoke of a conqueror won for his descendants the honour they enjoy. When the native dynasty was overthrown in 1643 by the Manchu invaders, Koxinga refused to acknowledge the conqueror, sailed away to Formosa, drove the Dutch from the island, and made himself master of it. Such recognition of the merits of the scholar and the valour of the soldier is highly creditable to the reigning dynasty, because both Confucius and Koxinga were Chinese and to the manor born.

If a closer look be taken into the imperial household, it will be seen that the Emperor has no choice in the selection of his wife. The Empress (*Hwang How*, sometimes called *Kwoh Mu*, "Mother of the State") is selected from certain families of the imperial clan, and the choice and all the details are arranged by special friends. Neither

the wishes of the bride nor those of the bridegroom are consulted, but in the selection of a concubine the Emperor has the freedom of choice. Is not this a reason for unhappy marriages in China? The same principle of matchmaking and ignoring the wishes or preferences of the parties most interested not only governs in the imperial household, but in all Chinese family life. But the Chinese answer that the number of unhappy marriages in China is not greater than in other countries, and claim merit for their marriage custom in that, when the husband is disloyally inclined, he is not required to stray away from his own home. His concubines live under the same roof as his legal wife, who still remains the ranking lady of the establishment.

Marco Polo writes that when he was in China the Emperor Kublai Khan had four wives whom he retained permanently as his legitimate consorts, and that the four were styled Empresses, but that each was distinguished by her proper name. Each Empress had a special court of her own with not less than three hundred young ladies-in-waiting, and, adding to these the number of pages and eunuchs, gives as many as ten thousand persons attached to each court. Polo further writes that Kublai had also a great number of concubines, and that his harem was replenished every year by selections made from the most beautiful maidens in the Empire.

But during the time of the later Emperors, and particularly of the present ruler, but one wife, who is the Empress, is allowed to the Emperor; but the practice of having concubines is not disallowed, and the eunuchs who still surround the court are often more influential in shaping the policy of the Empire than are all the members combined of the Council specially formed to advise the Emperor.

If I have succeeded in presenting a readable outline of the Chinese government, I hope I have made clear the main pivots of its practical administration. If the reader should wish to acquire a more technical knowledge of the subject, I refer him to the forty-eight volumes, published by the government, in which he will find prescribed in detail the duties and responsibilities of the officers of the several departments. These volumes are the official record, and the following is a brief synopsis of each volume: —

Volume I is on the office of the imperial kindred, and on the management of this department. The Tartar policy is to keep the majority of the numerous imperial progeny in a very low condition, as the imperial design is to retain the princes on a level with the people. Many of them receive but three taels a month, so that several work as servants. An accurate register of the births, marriages, and deaths in the imperial family is carefully kept.

Volume II is on the *Nui Koh*, or Imperial Cabinet or Grand Secretariat, which consists of six men, generally old, who have raised themselves to the highest seat in the Empire; their duty is to assist the Emperor in the government of the Empire, to circulate edicts, and attend at sacrifices.

Volume III is on the *Kiun Ki Ch'u*, the Grand Council or Imperial Privy Council. This is the most powerful body in the Empire; the members are chosen by the Emperor himself. They meet from three to five each day, and anything that requires despatch and energy is done by them; they appoint and remove the residents at Tibet, Turkestan, etc.; and they supply these colonies. They select presents for tribute-bearers, and translate public documents into and from any foreign languages, etc.

Volume IV is on the *Li Pū*, or Board of Civil Affairs,

whose duty is to assist his Majesty in all arrangements concerning the rank, examination, promotion, or degradation of officers; the rank and title of the nobility, rewards, etc. They have at their disposal (subject to the approval of the Emperor) the patronage of 1934 offices, from the governor of a province down to the district magistrate, with a number of inferior civilians.

Volume V is on the Board of Education. The number of functionaries under this board is 12,996 of all grades. Of these 3931 are teachers intrusted with the examinations. In the grain department there is one governor and with him are twelve inspectors. In the salt office, eight superintendents, five assistants, thirteen inspectors, and other minor officers. There are in the Board of Inland Navigation three governors, fourteen managers, thirty-four deputies, and some other officers bearing military rank, who have the duty of preserving the dikes and protecting the navigation of the rivers.

Volume VI deals with the mode of selecting public servants and with the various ways of promoting officers, etc.

Volume VII is on the *Hu Pu*, or Board of Revenue, which is charged with the finances, the payment of salaries, and the management of the granaries. It also contains geographical descriptions of the various districts of the Empire, and an account of the available waterways and mountains.

Volume VIII contains the censuses, cities, towns and markets, with the degrees of latitude and longitude of the several provinces, as calculated by the Jesuits.

Volume IX is on the expenditure of the state, and is arranged under twelve heads: for sacrifices, popular festivals, allowance for officers, for their servants, the provincial examinations, soldiers' batta, stipends of

couriers, inland navigation, sundries, manufacturers, and salaries.

Volume X, the details of the income and expenditure in some branches; the mines and mint.

Volume XI, a general report on the build of boats, the transit of grain, and excise duty on merchandise.

Volume XII is on the settling of disputes as to the pay of the soldiers of the eight Manchu banners, and other soldiers; on the supply of the commissariat with money and food, and on how to watch and overhaul the treasury and granaries, for fear of roguery.

Volume XIII expatiates on the *Li Pu*, or Board of Rites, one of the strongholds of the despotic government. It illustrates the hold of etiquette on the people.

Volume XIV dilates on the robes of state worn at the court, and on the ceremonies to be observed between the different officers of state when they visit each other.

Volume XV gives an account of all their schools and colleges, and of how the examinations are carried on.

Volume XVI gives a detailed account of the literary examinations, and of the duties of candidates for office. It also treats of the seals of the various departments, as used under the Board of Rites.

Volume XVII gives a minute account of their temples and altars, of the various deities and saints worshipped by the government, and the ceremonies in the temples.

Volume XVIII is a manual of the harem; it regulates the dress and etiquette to be observed by ladies of the court.

Volume XIX is on the presents to be given to tribute-bearers; gives an account of those kingdoms that paid tribute to China; it is also on the generosity that should be shown to tribute-bearers that come a long distance, on sacrifices to the gods of those nations, and gives a

description of imperial banquets to the living and the dead.

Volume XX is entirely on music, and gives the names of the airs to be played on certain occasions.

Volume XXI is on the *Ping Pu*, or Board of War, and gives the number of all officers and garrisons in the Empire, and their reviews.

Volume XXII is a continuation of the former, gives an account of the navy, the transport service, and the Tartar garrisons in the provinces.

Volume XXIII details the eighteen ranks of military officers.

Volume XXIV is on martial law, which is very severe; treats of the nobility that is open to the brave, and of the protection for the children of those who die on the field of battle.

Volume XXV treats of the cavalry and cavalry posts; as the foot-soldiers are considered an armed police, so the cavalry are mere couriers to carry despatches.

Volume XXVI contains an account of van, rear, and centre of the army, its battalions and companies.

Volume XXVII is on the *Hing Pu*, or Board of Punishments. It details the several modes of punishment, according to the ancient laws; subdivides the existing codes; reduces all the statutes it contains to matters concerning the six boards.

Volume XXVIII dilates on prisons, the commutation of punishments, assizes, and gives an outline of the seventeen principal courts.

Volume XXIX is on the *Kung Pu*, or Board of Public Works. The imperial tombs rank first, then the dikes and inland navigation. There is a full description of the imperial city.

Volume XXX treats of the manufacture of arms and

gunpowder; the selection of pearls for the use of the Emperor; the public works along the rivers and canals.

Volume XXXI gives a description of the tombs of the Emperors and other persons, the various granaries, the mint, the powder manufactories, etc.

Volume XXXII is on the *Li Fan Yuen*, or Colonial Office, which is managed entirely by Mongols. It regulates the emoluments of the nobility, appoints the audiences of the chiefs, and revises their punishments.

Volume XXXIII describes Outer Mongolia, and contains the names of the different hordes and their chiefs, from the lowest to the ruling khans. It has a short account of the trade with Russia and enumerates the caravan post establishments.

Volume XXXIV gives a more minute description of the Mongol princes, the tribute they pay, their relationship, the presents they receive, and gives an account of the nobility, revenue, and situation of Turkestan.

Volume XXXV is on the Board of Censors and their various functions; on the Court of Requests, through which all important papers pass; and on the *Ta-le-shi*, or Court of Revision.

Volume XXXVI is on the imperial stud; and the display of the Tartars when denizens of the wilderness.

Volume XXXVII gives an account of the eating establishment, and the sacrifices known as the *Kwan-lu-shi*; and an account of the annual imperial ceremony of ploughing in the fields, and the examinations in the palace.

Volume XXXVIII contains an account of the national school, in which the sons of meritorious officers are supported; and of the *Kin Tien Kien*, or Astronomical Board, which is to foretell coming events, lucky hours, and prepare the national calendar.

Volume XXXIX is a treatise on Chinese astronomy.

Volume XL is on the business of astronomers, and on the medical college and its various functions.

Volume XLI is on the imperial body-guard, and the service it performs.

Volume XLII gives an account of the eight standards of the powers of the Manchus, and their domestic arrangements at births, marriages, and deaths.

Volume XLIII details their duties at reviews, and their duties when on active service, etc.

Volume XLIV is on artillery, mortars, batteries, etc.

Volume XLV is an inventory of the things in the treasury, palaces, and temples.

Volume XLVI is on the marriage of the Emperor and princesses, and on the duties they ought to perform.

Volume XLVII is on the administration of punishment.

Volume XLVIII enumerates all the pleasure gardens in and around Peking, and their uses; and gives an account of the eating establishments.

CHAPTER III

LAW

It was stated in another chapter that the power of the Emperor was unlimited, but that he was careful to use it as modified by the customs of his Empire. It should not be inferred, however, that China is without a code of laws. It is true that in each province there are peculiar customs, and in essential particulars these customs often materially differ, but there is, nevertheless, a somewhat logically arranged code of laws by which the Courts should be governed, and rights and wrongs defined.

About twenty centuries ago one Li Kwei undertook to codify the laws of China, and the result of the undertaking is forty volumes which are divided into four hundred and thirty-six sections. Each volume is devoted to a certain branch of the law and subdivided into appropriate divisions. It is a comprehensive collection, systematically arranged, and clear in statement and meaning.

Since the codification of the laws by Li Kwei, the successive dynasties which have ruled China have amended or annulled many of the provisions of this code, but it remains the fundamental structure of Chinese jurisprudence.

At the commencement of the thirteenth century the Chinese as a nation first submitted to the sway of a foreign conqueror, and many of the laws and institutions now in force do not antedate the last Tartar conquest; but while this may be accurate as to mere date, it is a fact

that the Tartar did not conquer the manners and customs of the Chinese. The abrogation of a constitution or of a law may have been decreed by the conqueror, but when the rebuilding of the legal fabric was begun, the necessity for the use of the old materials was too pressing for them to be discarded.

There never was an instance in history of a conquered race absorbing its conquerors more completely than the Chinese have absorbed the Tartars, not only in manners and customs, but also in laws and language.

The Code which I shall mainly use as authority was published in 1647, three years after the Manchu Emperor took the throne. The principles on which it was drawn up are explained in the original preface, and the following extract from it is given as a matter of interest and to show its authentic character. The Emperor Shunchi describes the manner of revising the Code thus: —

"A numerous body of magistrates was assembled at the capital, at our command, for the purpose of revising the penal Code formerly in force under the late dynasty of Ming, and of digesting the same into a new Code, by the exclusion of such parts as were exceptional and the introduction of others which were likely to contribute to the attainment of justice and the general perfection of the work. The result of their labours having been submitted to our examination, we maturely weighed and considered the various matters it contained, and then instructed a select number of our great officers of state carefully to revise the whole, for the purpose of making such alterations and emendations as might still be found requisite. Wherefore, it being now published, let it be your great care, officers and magistrates of the interior and exterior departments of our Empire, diligently to observe the same, and to forbear in future to give any decision, or to pass

any sentence, according to your private sentiments, or upon your unsupported authority. Thus shall the magistrates and people look up with awe and submission to the justice of these institutions, as they find themselves respectively concerned in them; the transgressor will not fail to suffer a strict expiation of his crimes, and will be the instrument of deterring others from similar misconduct; and finally both officers and people will be equally secured for endless generations in the enjoyment of the happy effects of the great and noble virtues of our illustrious progenitors."

The public is indebted to Sir George Thomas Staunton for translating the Code into the English language, but, strange to say, this interesting and valuable translation has been allowed to go out of print. The copy before me was printed in 1810, and, without it, the foreigner, unless familiar with the Chinese language, would be unable to learn the laws by which the world's oldest Empire is governed.

The Code is based on the Chinese classics, which are the source and foundation of all Chinese law and the standard by which all rights and punishments are measured. The classics take the place of books of religion, model the form of government, and define and regulate authority.

I propose in this chapter to present some of the leading principles of the laws of China, and I hope to do so without confusing their meaning or boring with unnecessary details. As the idea of the whole system of laws is penal, I shall begin with the branch of it which, in modern jurisprudence, would be classified as the criminal law.

No correct understanding of either the criminal or civil branch of the law can be arrived at without constantly bearing in mind the doctrine of mutual responsibility. This doctrine is the keynote of the entire system and

gives to the system its penal and relentless character. "It makes an officer careless of his duties if he can shift the responsibility of failure upon his inferiors, who, at the same time, he knows can never execute his orders; it renders the people dead to the impulses of relationship, lest they become involved in what they cannot possibly control and hardly know at the time of its commission." (Williams.) The relentless feature of the doctrine is so strongly drawn, in connection with the doctrine of mutual responsibility, that I quote the very language. After stating that when several persons are parties to one offence, the original contriver of it shall be held to be the principal and the rest who followed as accessories, the language of the Code is as follows: "When the parties to an offence are members of one family, the senior and chief member of that family shall alone be punishable, but if he be upward of eighty years of age, or totally disabled by infirmities, the punishment shall fall upon the next in succession."

The members of a Chinese family are those who live as members of the same household, which includes all who enter by marriage or adoption as well as slaves and servants. But this definition, while correct, is not sufficiently comprehensive as to the meaning of mutual responsibility as intended by the Code. It has been stated that the unit of social life in China is found in the family, the village, or the clan, and that these are often convertible terms, and this is specially true as relates to the doctrine of mutual responsibility. The responsibility of the family for the act of a member is most cruelly impressed, in the crime of high treason, in another section of the Code. This offence is "committed either against the state, by overthrowing the established government, or endeavouring to do so, or against the sovereign, by destroy-

ing the palace in which he resides, the temple where his family worshipped, or the tomb in which the remains of his ancestors lie buried, or in endeavouring to do so. All persons who shall be convicted of having committed these execrable crimes, or having intended to commit them, shall suffer death by a slow and painful method, whether they be principals or accessories. All the male relatives in the first degree of the persons convicted of the above-mentioned crimes, the father, grandfather, and paternal uncles, as well as their own sons and grandsons, and the sons of their uncles, without any regard being had to their place of abode, or to any natural or accidental infirmities, shall be indiscriminately beheaded. All persons who shall know others guilty of high treason, or individuals having intent to commit such a crime, and who shall connive at the said crime, by not denouncing the authors, shall be beheaded." The responsibility of the family for a member who commits a lesser offence still follows, but of course the punishment is in accordance with the degree of the offence.

Next to family responsibility comes the mutual responsibility of neighbour for neighbour, and the question whether the neighbours are related does not count in fixing the responsibility. The deciding principle is that good neighbours make good neighbours, and when a neighbour commits an offence, it is no defence for another neighbour to say, "I did not know anything about it," for the answer is, "You are the neighbour of the offender and should have known." It is reported that the mother of Mencius removed three times in order to live in a desirable neighbourhood.

An additional illustration of the doctrine of responsibility is a memorial published in the *Peking Gazette*, relating that a governor of one of the provinces had reported

that, a parricide having been committed, he had had the houses of all the neighbours pulled down because of their gross dereliction of duty in not exerting a good moral influence over the criminal. Another illustration is given, when a crime has been committed, of the walls of a city being "pulled down in parts, or modified in shape, a round corner substituted for a square one, or a gate removed to a new situation, or even closed up altogether." Some writers maintain that if this crime should be repeated several times in the same city, the whole city would be razed to the ground and a new one founded elsewhere.

In this connection it may be remarked that the *Peking Gazette* is the oldest newspaper of which any account has been given. If the Chinese government can be said to have such a medium as a newspaper for its official organ, the *Peking Gazette* has long been that medium. It publishes at least what purport to be genuine copies of the decrees and edicts of the Emperors and the memorials addressed to the throne by the higher provincial officials.

From the neighbour to the village is another step in the doctrine of mutual responsibility. It has already been pointed out what important functions are exercised by the head-man of a village, and that these functions are of a most miscellaneous nature. Although the head-man may be first held responsible for the conduct of the inhabitants of the village, responsibility attaches more or less to every inhabitant and makes it the interest of each one to aid in preserving peace and order. Many of the villages of China are solely inhabited by persons who have the same surname and the same ancestors. These persons have lived in the same village since they began to live at all, and trace an unbroken descent for centuries back. A village so composed is a large family, and the principle of responsibility is in no sense changed.

Both in theory and practice the doctrine of responsibility is savage and cruel in the light of modern jurisprudence; but, constituted as the Chinese are, and have been since known to authentic history, it is doubtful if the vast numbers who populate China could be held in obedience to authority by a principle less searching and merciless.

I have wished to impress the principle of mutual responsibility in order to render more intelligible other principles of the Code which will now be presented.

Homicide. — This is the highest crime against the law of nature that man is capable of committing, and will be considered first, as being a serious offence not only in English law, but in the Chinese Code as well. It is not my purpose to make comparisons between what is necessary to constitute an offence in English law and under the Code, but rather to state the principle of the law of China as understood by the best authorities on the subject. A different course would necessitate technical distinctions, which it is my intention to avoid.

According to English law homicide is of three kinds. It is justifiable, excusable, and felonious. When justifiable, there is no guilt at all; when excusable, there is very little guilt; but when felonious, it becomes the highest crime against the law of nature.

The provision of the Code which brings a homicide under the third classification as above given and makes it felonious, reads as follows: "In every case of persons preconcerting the crime of homicide, whether with or without design, against the life of an individual, the original contriver shall suffer death by being beheaded. All the accessories to the contrivance, who likewise contribute to the preconcerted homicide, shall suffer death by being strangled."

Another provision of the Code reads: "All persons

guilty of killing in an affray, that is to say, striking in a quarrel or affray so as to kill, whether the blow be struck with the hand or the foot, with a metal weapon, or with an instrument of any kind, shall suffer death by being strangled." Immediately following is this paragraph: "All persons guilty of killing with intent to kill shall suffer death by being beheaded."

The quotations from the Code make it clear that to convict of the crime of murder, either in English or Chinese law, there must be proof of a felonious intent. In the Code the felonious element is expressed by the words "preconcert or design to kill."

The degree of the homicide, when the killing is by preconcert or design, and when done in a quarrel or affray, is indicated by the manner of the punishment. When the punishment inflicted is by beheading, the homicide is then supposed to be murder, but it is not of such a high degree when the punishment is by strangulation. The Chinese regard beheading as the most infamous of punishments, because when the body appears in the spirit-world, it is disfigured.

The Code provides how accessories shall be punished, marks the degree between them, and fixes the punishment accordingly. An accessory to the contrivance, who likewise contributes to the perpetration of a preconcerted homicide or murder, is executed by being strangled. If the accessory does not contribute to the perpetration of the murder, the punishment is by whipping and perpetual banishment.

If a wound be inflicted, in consequence of a previous design to commit murder, but does not prove mortal, the original contriver of the deed shall be strangled, and the accessories contributing to the perpetration shall be whipped and perpetually banished. All other accessories

who do not contribute in the manner indicated are also punished by whipping, but are banished for only three years. Banishment does not mean that the guilty accessory shall be sent out of the Empire; in the more aggravated cases the perpetual banishment is one thousand miles from the district in which the offence was committed.

There is a further distinction when a homicide has been preconcerted and attempted, but no wound inflicted. In this case the original contriver is whipped and banished for three years, but the accessory is whipped only. The extent of the whipping provided for in all the above cases is one hundred blows.

The Code is explicit against an original contriver. It says: "The original contriver shall suffer punishment as a principal, though not otherwise contributing in any manner to carry the design into effect; but the accessories to the contrivance, who are not guilty of any subsequent overt act, shall suffer punishment less by one degree than those of the accessories who acted in some respects upon the contrivance, although they did not personally contribute to the perpetration of the deed."

There is no distinction between the punishment inflicted upon principal and accessory when a murder is committed for the sake of plunder or robbery; both shall suffer death by being beheaded.

From the foregoing extracts from the Code it is evident that in China the crime of murder cannot be committed in the absence of an intent. In the criminal jurisprudence of all nations having a code of laws there is only one criterion by which the guilt of a man is to be tested. It is whether the mind is criminal. Neither in philosophical speculation nor in religion or moral sentiment could any people who made the slightest pretention to being civilized allow an act to be treated as criminal in the absence

of criminal intent. It is, therefore, a principle of Chinese, no less than foreign law, that the essence of an offence is the wrongful intent without which it cannot exist.

As if to remove all doubt as to the meaning of the sections of the Code referred to on the subject of homicide, the following is a commentary on the sections which the translator makes a part of the appendix to his translation. "In the trial and investigation of a case of preconcerted homicide, the artifice and preconcerted plan must be clearly proved, in order to warrant the condemnation of any person to suffer death by being beheaded, as an original contriver. In like manner, the act of striking and wounding must have been proved against those on whom the sentence of death by strangulation has been pronounced as accessories contributing to the perpetration of the crime. Further, a preconcerted scheme, and the prospect of booty, must be proved with the same certainty, in order to warrant a general sentence of death by being beheaded, against all the parties, whether principals or accessories, in the case of premeditated homicide for the sake of obtaining booty."

The responsibility of the officer who presides at the trial and neglects to discharge his duty as provided for by the Code is thus fixed: "If any magistrate presumes to pass sentence of death in any of the aforesaid cases of premeditated homicide, without having proof, in each case respectively, of the previous design, concurrence in the perpetration, or acquisition of booty, as the case may be, he shall be answerable for the lives of the individuals whose condemnation he pronounced."

A very narrow line is drawn between murder and manslaughter. Many cases are reported by Alabaster, in his "Notes and Commentaries on the Chinese Criminal Law," showing that the offence of manslaughter may result from extremely indirect causes. In some of these cases it is

astonishing how any court could find its way to a verdict of guilty. In one case a person was held even capitally responsible because a lunatic he thought was trying to ravish his sister-in-law ran out into the snow to escape a beating, and, leaving his clothes in the prisoner's hands, got frozen to death. In another the prisoner was capitally sentenced because a rival, trying to avoid him on his raising a hue and cry, tumbled into a stream, and was drowned. A third case, cited by Alabaster, was not so seriously dealt with. In that case the prisoner had caught a thief, and in leading him to the police station, with a rope which he had placed round the captive's throat, stumbled and dragged his captive with him into a stream, where the captive was drowned. The prisoner was sentenced to three years' transportation, as the court held that the deceased was really to blame. Some interesting points have been decided when death results from the unskilful practice of medicine. It is provided, "that in such cases other practitioners shall be called in to examine the nature of the wound, and the kind of medicine administered, and if it then appears that the error, though of judgment, was purely accidental, the practitioner may be allowed to redeem the penalty for manslaughter by fine, as in cases purely accidental, but will not be allowed to practise any longer. On the other hand where a practitioner, with a view to increased fees, aggravates a malady, with the result that the patient dies, the penalty of decapitation will be adjudged." It is not an uncommon offence to deprive a person of the necessary food and clothing. When this is done with a fatal result, the courts have held it to be a case of aggravated manslaughter. In deciding, however, whether manslaughter or murder had been committed, the intention of the accused would enter largely as a determining element. The English law is thus stated: "If the jury should regard this as a *bona fide*

case of mutual combat, without previous malice on the part of the accused, and that mutual blows were given before the accused drew his knife, and that he drew it in the heat and fury of the fight, and dealt a mortal wound, although for the purpose of doing just what he did do, — that is, of taking life, — or what would be that intent if he had been in such a state as properly to comprehend the nature of his act, still it is but manslaughter." The deciding principle that runs through the law and distinguishes between murder and manslaughter is, that the latter offence only is committed when the killing ensues from a sudden quarrel or affray and without malice aforethought. The distinction in Chinese law is not so clearly drawn, but there is a distinction nevertheless. In the case where the Chinese physician was unskilful in his treatment and death followed, it has been seen that the offence was manslaughter. In an English case the same principle was held to be sound law. "In the case of a physician or other person attempting to cure one of his malady, yet killing the patient through unskilfulness or gross carelessness, if the person so causing death is responsible at all to the criminal law, his offence is merely manslaughter, because he neither intended death nor used with the patient means which he knew were likely to put the life in peril."

Under the classification of excusable homicide, the rules which guide a Chinese court to the conclusion that the homicide is excusable are more complex than in English law. In English law, where a man doing a lawful act, without an intention of hurt, unfortunately kills another, the homicide is excusable. Thus, where a man is at work with a hatchet, and the head flies off and kills a standerby, or where a person qualified to use a gun is shooting at a mark and undesignedly kills a man. In both instances the act is lawful, the effect is merely accidental,

and the homicide is excusable. But if death ensues in consequence of an idle, dangerous, and unlawful sport, as shooting or throwing stones in a town, the slayer is guilty of manslaughter, and not misadventure only, for these are unlawful acts.

In a Chinese court, however, it is not enough to prove the intent. The court will carefully consider the weapon, the position of the parties, and the locality in which the act was done. The killing will not be held to have been accidental unless proved to have been clearly so and to have been unavoidable. The words of the Chinese law, as translated are, "that the use of the eyes or ears could not have avoided the accident, and no care or thoughtfulness could have prevented it." The plea of excusable homicide was admitted in a case where the prisoner tried to get away from a drunken man who desired to wrestle with him and who, being somewhat unsteady on his legs, toppled over on some firewood and killed himself. In another case, the prisoner had fired a bolt from his crossbow in the dark at a fancied thief, and a companion unexpectedly getting in the way was killed; here the plea of excusable homicide was admitted. But the plea was not admitted in the case of the prisoner who was out shooting on the highroad and, accidently firing off his gun, killed his companion. The locality where the gun was discharged, being the highroad, though little frequented, was against the prisoner, and he was sentenced to penal servitude for life a thousand miles from his native place.

Homicide has been classed as justifiable, and in English law a justifiable homicide is divided into two classes. In the first class the party is not to blame if the killing be owing to some unavoidable necessity, without any will, intention, or desire, and without any inadvertence or negligence. As, for example, where a person, by virtue of

his office, and in the execution of public justice, puts a malefactor to death, who has forfeited his life by the laws and the verdict of his country. But the law must require it, otherwise it is not justifiable; therefore wantonly to kill the greatest of malefactors, a felon or a traitor attainted or outlawed, deliberately, uncompelled, and extrajudicially, is murder. The second class consists of homicides committed for the advancement of public justice, in cases where the act is not commanded but permitted. As, for example, such homicides as are committed in the prevention of a felony, in the arrest of persons guilty or accused of crime, in preventing escapes, or retaking the criminal, or in the suppression of breaches of the peace.

Alabaster has translated into English several cases decided by the Chinese courts which illustrate this division of homicide. In one of the cases a robber entered a house at night and the owner of the house killed him on the spot, where it was not an offence if the robber was armed and resisted the arrest, thus putting the owner in peril; and it would be justifiable to kill the robber, if he were armed, in self-defence. If a robber enters a house during the daytime and is killed, the slayer is punished as if a light offence had been committed. If a man is killed while robbing a standing crop during the daytime, the case will be considered as one of unauthorized killing, which is less serious than killing without any justification. But when robbery is perpetrated in the fields during the night and the robber is killed, the killing is treated as in a measure justifiable. When a trespasser enters a house at night and is shot by the master, a distinction is drawn between sudden shooting and shooting after deliberation and threats; in the former case the killing is in a measure justifiable, but in the latter the intent enters as an element into the killing and makes it unjustifiable. The killing

of a person engaged in doing an act detrimental to the community at large, or to the state as representing the community, is justifiable. If a married woman, while resisting an attack on her virtue, kills the assailant, the assault, in the absence of other evidence, would greatly mitigate the crime of the killing; but if the woman was a virgin, the killing would be justified.

As a father is responsible for the acts of his son, the law very logically invests him with almost absolute power. Here comes in again the doctrine of responsibility, and a few decided cases will show its despotic bearing. In the case of T'ien Hung-lin, reported by Alabaster, the father burned alive his son and two grandchildren, and being sentenced to death for one child only, was let off with sixty blows and one year's hard labour, although the killing was brought in as with intent. There is the case of a blind girl who was adopted, and because she would not sing, was beaten to death by her adopter, who escaped with ninety blows and two years. Ho Chin-lin strangled his nine-year-old daughter for illicit behaviour with a boy aged fifteen; the father was sentenced to one hundred blows, the retribution being considered comparatively justified. A nephew who tore up the portrait of his great-grandfather and pitched his bust into a dust-heap, was killed by an uncle who was punished with one hundred blows only.

In the protection of a daughter's virtue a parent may justifiably kill, subject to the circumstances of the case. If an attempt is made to abduct a favourite daughter, even in the night, and the abductor be killed in the act, the killing is not entirely justifiable. If an improper advance is made to a daughter, and the parent should kill the person who made such an advance, whether at the time or afterward, the killing is not justifiable, but the sentence of death will be commuted.

Chinese law is positive in recognizing the rights of parents to protect their children, and the rights of children to protect their parents. The child who kills the murderer of a parent is completely justified when the slaying is done then and there as the result of the natural anger arising from the killing of the parent. To kill a would-be murderer in defence of a parent the child is partially justified, which means that the capital sentence, should one be pronounced, is commuted. The justification sufficient for interference has been explained in two cases. One is that of Ts'ai Ch'nan-chi, when the parent was on the ground and called for help, and the assailant was killed while his fist was raised to hit; this was held to be sufficient justification. The other case is that of Wang Hua-Yi, in which the supposedly endangered parent had not asked for help, being of the opinion that he was quite equal to the assailant, and it was held that the justification was not sufficient. The distinction between the two cases is that in one a battery was threatened and in the other it was not.

"In a homicide by relations generally questions of justification commonly arise where the killing took place in a relative's defence. To kill in a relative's defence one who has assaulted him with deadly intent is limitedly justifiable, and subject to the special considerations of the case. But the case must be a clear one, and instances are on record where it has been held in no measure justifiable to kill in defence of an elder brother. The majority of the cases, however, as usual arise in connection with the defence of a relative's propriety merely. So it is in a measure justifiable to kill a person who attempts to seduce a relative, either in her defence, or if the offender (alarmed by interference) turns on the newcomer, in his own; but in order to plead the statute the slayer must kill the

offender in trying to arrest him, and not in a new fight arising out of vituperation. To be justified in interfering the relationship must be near." (Alabaster.)

The reciprocal duties and rights of husband and wife will be discussed in the chapter on Chinese Family Law, which is the very centre of the entire legal system.

Rape. — In English law rape is defined as the unlawful, carnal knowledge by a man of a woman, committed with force, where she does not consent. It is a doctrine of the same law that a boy under the age of fourteen years is conclusively presumed incapable of committing the offence, whatever be the real facts of the case. The reason is that puberty does not often develop itself at an early period, and indecent disclosures which tend to corrupt public justice are prevented. In a female the law establishes the age of twelve years for her legal puberty.

The cases which have been decided by the Chinese courts mainly sustain in principle the definition in English law of what is necessary to constitute the crime of rape. In the Code the doctrine is expressly laid down that criminal intercourse with a female under twelve years of age, with or without consent, shall be punished as rape in all cases, the punishment being decapitation, but subject to revision. If the child should die, however, in consequence, the punishment would then be by decapitation. The consent of the child is not material, unless she had gone astray, when the punishment would be by transportation. In the case of Wu C'hi-lu it appeared that consent was given, but that the woman cried out before completion; this was rape, but the penalty was very much mitigated. It would be rape if consent had been forced from a woman by worrying her for money she owed the prisoner, or where the prisoner pretended he had effected his purpose while the woman was asleep. But when a woman is asleep, and there is no

resistance to the knowing of her, it is not rape. In other Chinese cases the line of distinction is most clearly drawn between a woman who has no claim to virtue and one who has. But at the same time the Code allows of repentance even in an abandoned woman, and to carnally and forcibly know one who has reformed her previous character is rape, and if the previous bad character had been known to the prisoner, such a plea would not excuse him. There must, however, be a real return to virtue, not a pretence. Where there has been a successive rape, the principal is sentenced to decapitation and there is no appeal, but the accomplice is sentenced to strangulation subject to confirmation. If the victim of the successive rape should die of exhaustion, the punishment is decapitation for the principal and strangulation for the accomplice without delay in either instance for confirmation.

If the impression prevails abroad that morality is not appreciated in China, the evidence to justify such an impression does not appear in the cases decided by the Chinese courts on the subject. In the cases immediately referred to above the crime of rape is as accurately defined and as surely punished as it is in the code of any western nation. The same is true with regard to the attempt to commit the crime, and any other indecency offered to a woman. The woman who kills herself rather than survive a shame she could not prevent is awarded a tablet and is revered by the Chinese as sacredly as the Romans revered Lucretia. By the standard of some western nations it could be concluded that there was a great deal of impropriety in China, but a people should be judged by their own customs and laws, and when these are opposed to immorality, and when their courts deal out summary punishments to offenders against morality and propriety, there is much to be said on their behalf. From such a

point of view a sweeping and unqualified arraignment or condemnation on this line cannot be warranted.

Houseburning. — If a person sets fire to his own house by accident, he shall be punished with forty blows; but when other buildings, whether public or private, are burned in consequence, the punishment is increased to fifty blows. If death be occasioned by the accidental burning, the punishment is one hundred blows. But the person responsible for the accidental burning shall be the only one liable to punishment. The punishment, however, is by strangulation "should the fire extend to any of the imperial temples, or to the gates of the imperial palace. If it should extend to any of the monuments consecrated to the spirit of the earth, the punishment shall be less by one degree." (Code.)

For arson of a man's own house the punishment is one hundred blows, but should the fire extend to and destroy any other building, or property stored for public or private use, the offender shall receive the additional punishment of three years' banishment. Should the person guilty of the wilful burning take the opportunity to purloin any goods or property, he shall be beheaded, and "if such burning should cause death or severe wounding of any person, the offender shall be punished at least according to the utmost severity of the law concerning intentionally killing or wounding." (Code.) If the building thus wilfully and maliciously burned be empty and uninhabited, or if fire be wilfully set to grain or other property of like kind, which is stacked and stored up in fields and open places, the degree of punishment is one degree less than that last mentioned. "All property of the offenders shall, in such cases, be sequestrated, and charged with the reparation of the loss or damage sustained, whether by private individuals or by the government, and when such property

does not prove sufficient, it shall be divided into shares proportionate to the respective losses of the individual proprietors and of the government." (Code.)

"All accessories, as well as principals, to the crime of wilfully and maliciously setting on fire any residence, either of an officer of the government, or of any private individual, their own only excepted, or to the crime of, in the same manner, setting fire to any government or private building, treasury, or storehouse, in which public or private property of any kind is stored and deposited, shall be punished with death, by being beheaded at the usual period." (Code.)

"To convict such offenders, it is necessary that they should have been taken or discovered on the spot where the fire took place, and that the fact of their having been wilful incendiaries be proved by the direct testimony of competent witnesses." (Code.)

When the burning happens during the commission of another offence, the accident does not mitigate but aggravates the offence. In the case of Yang Erh, who, having committed larceny, was running away, and while doing so dropped a slow-match within the house where he had committed the offence, and thereby set the house on fire, it was held that the fire was traceable to the theft, and that the offence was aggravated to the highest degree.

Housebreaking. — This offence, as distinguished from houseburning or arson, is against the security of the habitation, not against the dwelling-house as property. The offence by itself may not be known to Chinese law, but the elements which constitute it in English law enter into the essentials of other offences which are known. The better opinion seems to be "that the breaking and entering a house with the intention of committing an offence therein, is dependent upon whether the offence was

committed. If no offence be committed in the house, the mere breaking and entering is an aggravated form of simple trespass dependent upon the nature of the offence intended, the time, and the general circumstances. If an offence be committed in the house, the breaking and entering is a mere aggravation of the offence. So if larceny be committed therein, it is commonly a form of robbery with violence ; if rape, it is an aggravated form of rape ; if homicide, it is a case of homicide dependent upon attendant circumstances. For the question of aggravation, the entry is in most cases an important point to determine ; but it can hardly be said that such technicalities as an actual or constructive breaking are considered. Again, purely as a question of aggravation, to enter a house by night is more serious than to do so by day. To enter a boat in which a person lives is the same as to enter a house." (Alabaster.)

Perjury. — In English law perjury is defined as the wilful giving, under oath, in a judicial proceeding or course of justice, of false testimony material to the issue or point of inquiry. The definition of the offence is broader in Chinese law. A material difference is that in a Chinese court no oath is required, and the statement supposed to be false need not be relevant to the issue. If the witness draws upon a too vivid imagination and makes statements misleading, whether relevant or irrelevant, he would be punished as a liar by being slapped on the cheek or mouth with a leather slipper, or bambooed. Ordinary lying in court, when not persisted in, and when no consequences result, is punishable with a hundred blows only. A mother enjoys some immunity when making a false statement on behalf of her child, and a wife is apparently not punished should she give false evidence on behalf of a husband or of parents or an elder brother. There seems

to be also a special immunity from punishment enjoyed by relatives testifying on behalf of each other. As there is a mutual responsibility between relatives, so the law rather releases its scrutiny or vigilance when they are giving evidence on each other's behalf.

But the punishment is more severe when the person is guilty of giving false and malicious information whereby a man is expressly charged with a crime, or when he is charged and convicted. "When the accused person, having been condemned upon such false accusation, shall have proceeded to the place to which he had been sentenced to be either temporarily or perpetually banished, although he should afterward have been speedily recalled on the discovery of his innocence, an estimate shall be made and verified before the magistrate of the expense he may have incurred by his journey, that the false accuser may be compelled to reimburse him to the full amount, and the false accuser shall likewise be compelled to redeem, or to purchase for him, any lands or tenements which he may have sold or mortgaged to defray such expenses, — moreover, if such unmerited banishment should occasion the death of any of the relations of such innocent persons, who may have followed him to his destination, the false accuser shall suffer death, by being strangled, and besides the reimbursement aforesaid, half of his remaining property shall be forfeited to the use of the innocent person. When any person is accused of a capital offence, and upon such accusation has been condemned and executed, the false accuser shall be either strangled or beheaded, according to the manner in which the innocent person has been executed, and half his property shall be forfeited as in the preceding instance." (Code.)

I have selected five of the graver offences known to the penal Code of China, and pointed out the elements neces-

sary to constitute these offences. By that course I hope to make it plain that, in comparison with the definitions of similar offences in English law, China has a code of laws of her own in which crime is intelligently defined and adequately punished. And this Code of China was prepared and in force when the ancestors of the present Saxons were without any code of laws prescribing what was right and punishing what was wrong.

This chapter would be extended to the size of a large book were I to name all the minor offences which are defined and punished by the Code. If any one desires to examine fully into the intricacies of Chinese law, he has only to consult the excellent translations on the subject, where he will learn that China has an orderly legal system, and that the minor as well as the graver offences have not escaped the grasp of her lawmakers.

But as it is my purpose to present a few only of the leading principles of the Code as indicative of its scope, and in the hope that I have done so as regards the criminal branch, I will now follow the same order of presentation with regard to what in English law would be the civil division.

In the mercantile law of China attention must be paid to the regulations of the different marts of trade. The local authorities as a rule have ample power to provide regulations suitable to the particular place and made with due regard to circumstances. This has proved to be the policy which has met conditions in a manner satisfactory to Chinese merchants. And in such a policy the unyielding influence of custom in moulding laws is very apparent.

But there are certain general principles that govern in the interest of general trade, though even these are not so well defined as would be expected of a people having the genius for mercantile pursuits possessed by the Chinese.

In the various marts of the Empire there are licensed brokers, commission agents, and ship-brokers, the scope and duties of whose offices are defined and limited. To prevent the abuse of any privilege each mart has its own regulations, and the record kept by each is subject to inspection every month at the local magistracy. As an additional guarantee the brokers or agents are selected from among individuals of wealth and standing, who are liable to heavy penalties if they fail to perform their duties with fidelity and honesty. To further safeguard trade the monopolizing of markets is provided against and offenders are summarily punished. With reference to this particular offence, "the law is broad, comprehensive, and distensible, so as to include penalties against mercantile transactions generally, that are inimical to the public weal." And there are two cases reported of imperial intervention in this class of offences. More than once such an offence has been the subject of a memorial directly addressed to the Emperor by a censor, that has resulted in vigorous investigations. In the Ningpo Northern Chamber of Commerce there is a regulation in the following words: "It is agreed that fictitious buying and selling being illegal, this Chamber entirely interdicts that to its members. If violations of that law come to our knowledge, we will transmit to the authorities the offender's name; assuredly no favouritism will be shown."

The law and regulations above referred to are aimed at what, in the language of modern exchanges, is known as "speculating in futures." They were meant to apply to those who entered into combinations to raise or depress prices; and to receive any undue profit caused by the manipulation of a market rendered the offender liable to the punishment that would be inflicted upon one convicted of stealing. Whether enforced or not, it is the spirit

and intent of the law of China to guard the morality of trade.

Partnerships. — Under the laws of China a partnership may be formed for any legitimate purpose. The terms of the partnership are regulated and the liability of the partners fixed by the custom of the locality. While local custom may vary in the great commercial centres of the Empire, the courts decide questions arising out of partnership transactions according to a common-sense view of the particular case. It is not usual for all the members to participate in the management of the business, but the management is as a rule intrusted to one member or to a manager who is responsible to the outside world for the solvency of the partnership. There may be, and not infrequently is, more than one managing partner, but whether one or more, the partners who do not participate in the management are regarded as dormant partners or, more accurately, as investors merely. Such investors will not usually be held responsible for any part of the debts. They would lose the capital they had invested, and that would be the extent of the loss charged against them unless it could be proved that they had in some way contributed to the failure of the partnership. But they would not only be expected, but required, to do all they could to produce in court the managing partner or the manager.

If the partnership be one in which all the partners exercise control in the management, and the terms be known, then in case of failure all the partners would be liable, but the liability would be measured by the share of the debts proportionate to the share of each partner in the capital of the partnership.

If a joint-stock company should be formed, the capital of which was represented by shares fully paid up, the shareholders would not be required, in the absence of a

specific agreement, to contribute to the liquidation of the debts of the company, in the event of failure. The moral view is that the company would be regarded as a large partnership in which the directors would represent the managing partners, and the shareholders the dormant partners or investors. The directors would be held responsible for the whole of the debts, while the shareholders would lose the amount of their paid-up shares. Certainly this is a very efficient check on directors.

When a managing partner is unable to discharge the liabilities of the partnership with his own funds, the question may arise how far his interest in the undivided family property, if any, can be made available. Each son or his representative has an equal share in the family property, but the father has control of it for life and can waste or squander it as he pleases, and for a grave moral turpitude he can, by legal process, wholly defeat the claim of the son to the succession. But in determining this question it would appear as settled, that if the managing partner's share in the partnership had been advanced from the family property, and the profits derived from the partnership had been paid into the family, a decree would very probably be entered against the family property to the extent of the debtor's share in it. But how the decree would be enforced is another question. It would not be enforced as in English law, for Chinese courts do not as a rule enforce their decrees or judgments by the seizure and sale of the property of the judgment debtor; but a warrant for his arrest would be issued, and when found, he would be put in prison and kept there until the debt is paid. Such proceeding is upon the principle that to owe a debt and to refuse or be unable to pay it is a criminal offence in itself, for which the delinquent debtor is liable to be punished. The arrest and imprisonment is, therefore, the

necessary preliminary to the enforcement of a decree or judgment of a court in China, and until the managing partner of a bankrupt partnership has been arrested, whatever may be his share in the family property, it is exempt from interference or action. A father is not responsible for the debts of a son, but a son is responsible for the debts of his father, though one brother cannot be held liable for the debts of another brother. The family property is owned in common, not individually, and the legal tenants are the family council.

After the delinquent debtor has been arrested and imprisoned, the custom is for the friends of the creditor and debtor to come together with the view of effecting a settlement, and this is usually effected by a compromise, whereupon the debtor is released.

If the debtor should prove obstinate, or the friends should fail to agree upon a compromise, it is known that a creditor has resorted to other means to make the debtor pay or to cause his condition to be far more serious. Sometimes a creditor will threaten to go and hang himself or in some other way destroy his life if the debtor still refuses to pay. Should the threat be carried into execution, the debtor may be tried for a serious offence and punished accordingly. But another means of compelling payment, which seems peculiar to China, is for the creditor to go and live in the house of the debtor and at the latter's expense until he receives payment, and neither the debtor nor his family will venture to expel the uninvited guest. If the family property has been divided, then the share that would belong to the debtor would be treated as other property owned by him, but a creditor would have no claim against the other shares.

Several years ago the Chinese merchants residing and doing business at Hongkong presented a petition to the

governor of the British Colony, in which there were suggestions with reference to alterations in the law of bankruptcy and the compulsory registration of partners in mercantile firms. The following is an extract: "Chinese partnership concerns in the interior always use the real names in drawing up their partnership agreements. Now, whereas according to the Chinese usage, whenever a shop becomes insolvent, in all cases the full amount of the deficit has to be made good *pro rata* by the partners according to the amount of capital represented by them. There is, therefore, in the interior no such practice as using fictitious names. But as in this colony, the regulations pay no regard to the number of shares held in each case, if bankruptcy occurs, . . . they should be bound to pay and make good the amount of its liabilities. If any of such chief partners have no real property in this colony, in that case, whether the creditors be foreign or Chinese, the government should consent to send an official communication to the Chinese authorities requesting that the family property which the persons concerned may have in the country be ascertained, sequestrated, and sold to provide the due portion of the amount to be paid."

This petition was apparently drawn for the purpose of ascertaining with certainty the names and surnames of the members of a partnership, and this was to be done by obliging each partner to register his name or surname at the time when the partnership entered upon the business it was formed to carry on. It was a step in the right direction as it rendered all the registered liable and did not restrict liability to the managing partners only, but it still retained the idea of a limited company, because a partner was only liable to the amount of the share he had in the partnership. It went another step in the direction

of making as certain as possible that the share of a partner in family property should be sequestrated and sold as any other property belonging to him. In China, however, the principles of the law of partnership remain substantially as I have stated them. And as the family property is owned in common and mainly subject to the decision of the family council, it would be safe to conclude that no share of it could be sold for the debts of any owner in common during the lifetime of his father.

Mortgages. — In English law the written instrument which conveys a title to personal property is a bill of sale; that which conveys a title to land is a deed. In China personal or real property may be mortgaged to secure a debt, as for money loaned, and the practice in China of lending money upon landed security is very ancient. The Code provides that whoever takes land or tenements by way of mortgage shall enter into a regular contract which shall be duly authenticated and assessed with the legal duty by the proper registrar. Omission to do so subjects the offender to fifty blows and the forfeiture to the government of half the consideration money of the mortgage. And if the mortgagor does not transfer to the mortgagee unreservedly the whole produce of the land upon which the taxes are charged and made payable to the government, he shall be punished in proportion to the quantity of the land, which, in addition, shall be forfeited to the government.

If by any false pretence one attempts to raise money by giving a mortgage on his land which is already mortgaged, the amount shall be ascertained and the offender punished as in the case of an ordinary theft to the same extent, except that he shall not be liable to be branded. The pecuniary consideration thus received by the fraudulent mortgagor shall be returned to the mortgagee, unless the

mortgagee himself was privy to the fraud, in which case it shall be forfeited to the government. Both the mortgagee and the negotiator, or either, when acquainted with the unlawfulness of the transaction, shall receive the same punishment as the mortgagor, but in all such cases the first and lawful mortgagee shall remain in possession.

What is known in English law as the equity of redemption is also recognized in Chinese law, and the following is an abstract of some of the principal clauses in the Code on the subject: "No mortgage, or redemption of lands mortgaged, shall be reversed or set aside, after it has been signed by all the parties interested, or after it has been acquiesced in by them for five years. When it is expressly declared in the preamble of a deed of sale, that the land is sold absolutely, and not by way of pledge or mortgage, and there is no subjoined clause providing for the contingency of a further payment to the seller, as a consideration of his making a sale absolute at a subsequent period, such a deed of sale shall be an effectual bar against all claims whatsoever of redemption. But if the sale is not expressly declared to be absolute, or if there is a general clause of redemption, or a specific one of redemption at any time after the expiration of a certain period, the original proprietor shall, according to the terms of the agreement, be entitled to recover his land upon repayment of the consideration for which it was pledged or mortgaged. If the original proprietor, at the end of the period specified in the contract, is still unable to discharge the mortgage, it shall be at his option, either to retain his right to a recovery of his land, at any future period, or to surrender it, and make the sale absolute, in consideration of the receipt of a further sum to be agreed upon by him and the mortgagee, or between arbitrators duly appointed by the parties. If they cannot agree upon the terms, the

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mortgagee shall have the option of either continuing in possession, or of reimbursing himself, by remortgaging the land to some other person, the right of redemption remaining as before in the actual proprietor. It is, however, provided that all deeds of sale which are doubtful, or imperfect, owing to the tenor of the preamble, but which contain no clause of redemption, shall, if not questioned or objected to for thirty years from the date thereof, be to all intents and purposes absolute. Those lands which have been allotted on the tenure of military service cannot be pledged or mortgaged, but may be let for any term not exceeding three years."

A distinction between mortgaging and pledging land is made in Chinese law. When the land is pledged as security for value received, its use and income are surrendered in lieu of interest; and when the money borrowed by virtue of the pledge is repaid, the land is fully redeemed. If the land pledged should not be redeemed in ten years, the pledge must be converted into a sale by a new contract.

The essential difference between a pledge and a mortgage is, that when land is pledged, the debtor delivers it to the creditor, but pays no interest on the money borrowed, the creditor accepting the enjoyment of the possession of the land and the income in place of interest, whereas in a mortgage the debtor only secures the debt on the land and pays interest, but does not deliver possession. The creditor has only an action against the land if the debt is not repaid by the debtor. This refers to land mortgaged for money loaned and not to another form of mortgage where the mortgagee enters into possession as explained in the chapter on Tenure and Transfer of Property. As already indicated, either real or personal property may be mortgaged or pledged; but

the custom is, when it is desired to raise money on personal property, to put it in pawn with one of the many pawnshops scattered throughout the Empire. When property is pledged, the contracting parties exchange two instruments in writing, one of which is signed by the party delivering the property, and the other by the party receiving it.

Interest. — "Whoever lends his money or other property of value, in order to derive a profit from such transaction, shall be limited to the receipt of interest on the amount or value of the loan, at the rate of three per cent per month, and, whatever the period of years or months may be, upon which is due at the day of repayment, no more shall be received or demanded than the original sum lent, and the lawful interest thereon, to any amount not exceeding the principal." (Code.)

The above provision which I have copied word for word from the Code clearly states the legal rate of interest in China, and there is a provision immediately following which punishes transgressors of this law with forty blows for every offence "and as much more severely as may be proportionate to the amount of the excess of interest," though punishment shall not in any case exceed one hundred blows. And "on the other hand, if the debtor does not fulfil his agreement with the creditor, both in respect to repayment of the principal and the payment of the lawful interest, he shall be liable to punishment," according to the following scale: —

"If three months after the stipulated period, he falls short of the amount due his creditor by five *liang* or upward, he shall be liable to a punishment of ten blows, and to an increase of punishment at the rate of one degree for every additional month of delay, as far as forty blows.

"If three months after the stipulated period he falls short of the amount due his creditor by fifty *liang* or upward, he shall be liable to a punishment of twenty blows, and to an increase of punishment at the rate of one degree for every additional month of delay, as far as fifty blows.

"If lastly, three months after the stipulated period, he falls short of the amount due his creditor, by one hundred *liang* or upward, he shall be liable to a punishment of thirty blows, and to an increase of punishment at the rate of one degree for every additional month of delay as far as the limit of sixty blows, and in this as well as in the preceding cases the debtor shall continue responsible for the amount of the principal and interest lawfully due." (Code.)

There is an express provision punishing the creditor who attempts to collect his debt by irregular means, such as seizing the property of the debtor, accepting his wives or children in pledge for payment, or seizing by force and carrying off the wives or children of the debtor. In the latter instance, if the creditor be guilty of criminal intercourse with the females so seized, he shall suffer death, but when the wives or children are accepted and not seized, and the creditor has criminal intercourse with the females, he then receives severe corporal punishment only.

In the case of Cheng Ch'ien Ts'ai, a creditor seized six cows owned jointly by the debtor and the debtor's brother, and killed the debtor in the course of the robbery, the Board insisted upon the homicide being considered as happening in the course of an ordinary affray, and not in the course of robbery, inasmuch as the debtor had an interest in the cattle, and the creditor clearly seized them more or less in consequence of being unable to recover his just rights. The principle is that the creditor must

not take the law into his own hands. A not uncommon solution of the difficulty, says Alabaster, is for a creditor to hang himself outside his debtor's door, and get the latter strangled for it.

The legal procedure to recover the debt is to present a petition to the necessary effect to the magistrate, who thereupon furnishes an officer with a warrant to collect the money. Armed with this warrant the officer arrests the debtor, and keeps him in custody until the debt is paid, or if there be a delay in payment, he, with a view to expediting it, takes the debtor from time to time to the magistrate to receive a certain amount of castigation.

But it is by no means to be understood that the highest rate of legal interest allowed by law is always charged. There are two considerations which generally influence the rate, and they are the advantage to be gained by the use of the money, and the amount of risk which the lender takes in advancing the loan. If the condition of business is prosperous, of course the rate will not be high, nor will the rate be high when the business or pecuniary situation of the borrower is high class, and the risk consequently small, and when loanable capital is plentiful. These are the fundamental considerations which materially govern the rate of interest to be charged in business transactions in China, and it is easy to see that in one business centre the rate may be low, while in another it may be high. And as each business centre has its own peculiar trade regulations, so the charges for the use of money are fixed accordingly, and the law does not propose to do more than establish the maximum rate and enforce any agreement the parties may have made. If the terms of the agreement are not complied with, the offender is punished, thus illustrating the general feature which governs in the civil as well as in the criminal law. "Those who have

observed attentively the manners and institutions of China have been struck by two things very fit to attract attention. On the one hand, the generally penal character of the Celestial Empire. Every ordinance of the law, every regulation, is made under penal sanction, not only in criminal affairs, but also in matters generally civil. All irregularities, faults, or negligence, and so forth, that in European legislation would entail only forfeitures, incapacities, errors, or some slight civil reparation, are punished in China by a certain number of strokes of the bamboo. On the other hand we find all China with its official religion, its public and private ceremonial, its political institutions, its police and administration, and its vast population governed on the one single principle of filial piety, a principle which has extended to the respect due to the Emperor, and his delegates, and which is in reality little less than the worship of ancient institutions." (Huc.)

In a subsequent chapter on the Tenure and Transfer of Property, other principles of the laws of China will be referred to, and the law which governs the relations of the family will also, because of its supreme importance, be made the subject of a separate chapter. I will conclude this with some extracts which have been translated from a "Chinese Collection of Leading Cases" by J. W. Jamieson, with his own comments interspersed, the decisions of which, having been carefully revised and approved by the central government, are held to establish precedents whose validity is equal to statute law: —

Restitution of Stolen Property. — (1) All persons accused of theft or robbery shall, on being sentenced, be subjected by the official concerned to a rigorous examination as to whether or not they are in a position to make restitution. Should it be clearly proved that they are

unable to do so, a solemn declaration to that effect is to be made out, and, together with a report of the circumstances of the case, submitted through the higher authorities to the throne. The greater proportion of criminals of this class belong to the poorest of the poor, and it would be useless to subject them to imprisonment until able to pay. By this means, however, they can be dismissed after execution of sentence.

Defaulting officials must in all cases be detained in prison for over a year, during which time severe pressure is to be brought to bear on them, and only if, after the expiry of this period, it be proved that the offender is absolutely unable to refund, can application be made to the throne to consider and decide what course is then to be pursued. Otherwise it would be very easy for officials to plead inability to pay, trusting so to get off and enjoy the ill-gotten gains they had, in the meantime, carefully concealed.

(2) Sun Ying-feng, a cashiered brigadier-general, appropriated taels 130 of the public funds, and by bribery and corruption amassed a further sum of taels 1450.

He was brought to trial and banished to Ili, an order being issued for the recovery of both sums from his wife and family; this sentence received imperial sanction, and the case was closed.

Some time afterward the governor of Hunan, in a memorial, prayed that proceedings be stayed as the family were in a state of abject poverty and quite unable to make any restitution.

In consequence hereof the repayment of the sum obtained by bribery and corruption was not insisted on, especially as more than a year had elapsed from the time when proceedings were first commenced.

The other sum of taels 180, being public money, could

not, however, be dealt with in the same way, and as it appeared that Sun had embezzled this money while stationed at Ch'ao-chow, the governor of Canton was instructed to devise some means of making good the amount.

From this it would appear that money appropriated from the government chest (or as it is technically called *Kwan Kuan Tsang* in contradistinction to money obtained by squeezing, which is known as *Ju Kuan Tsang*) must be made good, if not by the culprit himself, then by the district of which he was in charge.

An extract from the Code is likewise quoted to the effect that in all cases where the amount of *Kwan Kuan Tsang* exceeds taels 10 and that of *Ju Kuan Tsang* taels 20, the delinquent is to be imprisoned and subjected to pressure (*chien chiu*) for a period of over a year. See paragraph (1).

It may here be remarked that funds appropriated by officials, or otherwise made away with and recovered with a previous reference to the board, are styled appropriated and reported ; those recovered by the officials on their own responsibility, appropriated but not reported. Of these latter a table is to be drawn up and sent in at the beginning of every year, within the first two months after the opening of the seals.

(3) It frequently occurs that, owing to remissness on the part of the district magistrate, robbers are allowed for long periods to go unpunished, and it is the practice in such cases to make the magistrate himself responsible for the amount carried off, to the undermentioned extent.

Where the robber is arrested, but none of the stolen property recovered, and the latter does not exceed taels 100, the magistrate shall make good the whole amount. Where the value of the property stolen exceeds taels 100,

he shall be called upon to make good from ten to twenty per cent, according to his means. If the magistrate, however, succeed in recovering any of the stolen property, no matter how little, he shall not be held responsible for the remainder. It is likewise ruled that all goods belonging to the robber shall, on recovery, be handed over without reserve to the party robbed. This does not apply to cases of thieving or petty larceny.

The object of this system of holding officials responsible is to insure their prompt action whenever a case of robbery is reported, as otherwise the robber is given time to make off with his booty and spend it, to the serious loss and inconvenience of the party robbed. The responsibility of the official can, however, only be fixed after the arrest of the criminal and after an acknowledgment by the latter that the list of stolen property handed in by the party robbed is correct, as it would be manifestly unfair to cause restitution to be made on the basis of fictitious values, and thus to expose the official to the designs of unscrupulous persons, who would not hesitate to exaggerate greatly the amount of which they had been robbed, or even go to the length of reporting robberies which had never taken place at all.

Should an official be ordered to make good an amount, such as the above, but, before having made payment, be degraded to a lower rank for some other offence, or die, the matter may be allowed to drop.

Fraudulent Sale of Lands and Tenements. — (1) Li Sheng, the proprietor of a coal-mine in the Peking district, being on account of illness unable to look after it himself, appointed Chang Yung-sheng to manage it for him. The latter asked for some written authority that he might produce, if called on to do so, and fraudulently induced Li to sign a document giving him the mine. He then

inserted his own name in the contract with the workmen, who duly appended their signatures thereto.

As he had received instructions from Li to look after the mine and in addition had written authority to that effect, his offence is not quite so aggravated as that of wrongfully taking possession of the estate of others, and he was accordingly sentenced to a punishment one degree less severe than that for the latter crime; namely, one hundred blows and banishment for three years.

(2) An Ch'i-se held, on lease from one of the imperial princesses, ninety-nine *mow* of land which had been allotted to her by imperial decree and was thus government property, so to speak. He was repeatedly called upon by the prefect to give up the land and pay the due rent, and on being arrested, made his escape. After a few years he returned and again took possession of the land, alleging it to be his own property and refusing to pay rent for it, at the same time inducing the other tenants to pursue a similar course. In accordance with the punishment due to all those who take possession of land in a government settlement, if it be over fifty *mow* in extent, he was sentenced to transportation to the nearest frontier.

(3) T'ung Wu, a small official in the Nei Wu Fu, had a piece of ground which he gave up to the government, by whom it was entered on the banner roll as public property, and as such it could not of course be disposed of by private sale.

It was lent to him shortly afterward to build a house on, when he took the opportunity of selling it, alleging it to be *min-ti* (private land). For this he was punished in accordance with the number of stripes allotted to all who fraudulently dispose of other people's property, increased by two degrees, as the property he had disposed of belonged to the government.

(4) Huang T'ien-jung, a soldier who had been dismissed from the service, although well aware of the law applying to uncultivated ground (the expression used is uncultivated ground, and signifies government property, on which no trespassing is allowed), forcibly took possession of a piece of such land and let it out to a tenant, who paid him rent as if it were his own. It appeared, however, that his late grandfather had been the first to cultivate the ground and raise a crop on it, so that he could hardly be punished to the full extent for his offence, and his punishment was reduced by one degree; but as he was an ex-soldier, this reduction was counterbalanced by the increase of one degree, which falls on such individuals.

(5) Sien I-yueh took possession of land which had formed in the middle of a river, and proceeded to sell the same. On the appearance, however, of a proclamation by the district magistrate forbidding such practice, he discontinued selling. As his case differed from that of those who fraudulently take possession of government and other people's property, his punishment was reduced by one degree.

(6) Hsu Pao-chow bought a piece of land from Hsu Chueh-wen, although at the time aware of the fact that this ground was part of a lot which had descended by inheritance to the whole of the Hsu family, which Chueh-wen had no right to sell, notwithstanding his statement to the effect that it was "reformed land," which had been duly entered on the register. There is no provision made in the law regulating the punishment of those who buy land, although aware of the fraudulent nature of the transaction; but in the law of mortgages it is laid down that if the mortgagee is aware that the mortgagor is raising a second mortgage on a piece of land, and notwithstanding

such knowledge closes the transaction, his guilt shall be held equal to that of the mortgagor; so in the present case Hsu Pao-chow's, the buyer's guilt, was held to be equal to that of Hsu Chueh-wen, the seller.

(7) Wang Ch'ao-tso mortgaged a piece of land to Chow P'ing-fu, reserving to himself the right of redemption. As the soil was extremely fertile, Chow tried to get possession of it in the following way: he made an exact copy of the deed of mortgage, and fraudulently inserted the following clause, "Should the mortgagor through lack of funds be unable to redeem the land, the mortgagee is permitted to pay the land tax on it in his stead," hoping that if his payment of the land tax were officially sanctioned, he would be able to debar Wang from redeeming the property. In summing up the case, it was held that, as he, as a matter of fact, had an interest in the land, his conduct was not so reprehensible as if he had taken possession by a fictitious agreement, without due pecuniary consideration, of the land of another, and his punishment was accordingly reduced by one degree.

NOTE. — It will be seen that this case is a further illustration of the fact that, in the absence of other documents, duly stamped official receipts for land tax paid, form a fairly valid title.

(8) Ch'u Chin-hsi was employed by Chile-changer to look after his ancestral tombs, but took the opportunity of mortgaging, for pecuniary consideration, twenty-five *mow* of adjoining ground which had been set apart to defray the costs of sacrifices. As no provision is made for such an offence; namely, that of a servant mortgaging part of his master's burial-ground, he was sentenced to punishment in accordance with the rules laid down for punishing sons and grandsons who mortgage part of the ancestral grave property.

CHAPTER IV

FAMILY LAW

THE subject of this chapter is the most important in the legal Code of China. It would be impossible to understand or appreciate the customs and laws of the Chinese without some knowledge of their family life. In China the family is the centre about which everything revolves. More than any other institution it has contributed to shaping the history and maintaining the long life of the Empire. Whatever is conservative in Chinese character is directly traceable to family influence, and during all the centuries through which China has lived that influence has been fundamental and sustaining.

In Chinese law the term "family" has a very comprehensive meaning, and its full significance is determined as much by custom as by law. The family embraces all the members of the same household that stand under one head. There is no distinction between those who have entered the family through marriage or adoption, and servants and slaves and the children of such are embraced in the membership. There is a certain kind of relationship existing between the members, regardless of how each entered the family, and this relationship carries with it a degree of responsibility measured by custom which is inseparably mixed in the Chinese mind with law.

The idea of a family is usually preceded by that of marriage, but not necessarily, and in China, by reason of the principle of adoption and concubinage, large families

are not unusual when there has been no marriage in the legal sense of the Code.

Neither custom nor law allows a Chinese to have more than one legal wife, and if he transgresses he would be as promptly punished under the Code as if convicted of bigamy under English law. But while forbidden to have more than one legal wife, he may have as many concubines as he feels able to take care of, and there is this peculiarity that his legal wife is selected for him, while his concubines are chosen by himself.

The Code does not prescribe any age for marriage, but it is an established custom that males marry when over twenty years of age, and that females are rarely given in marriage before their fifteenth year. Modern legislation has prescribed a certain age at which puberty is supposed to be attained, and named that age for the candidates as a prerequisite to marriage; but such a prerequisite is not known to the law of China. The belief that once prevailed that puberty is attained at an earlier age in hot than in temperate climates has been discredited by later investigations, and it is now established as a scientific fact that in China puberty commences at about the same age as in Europe. And also the belief that early marriages are common in China is just as far from being accurate.

It is the custom to provide early in life a suitable wife for the son and a suitable husband for the daughter, and this may be done during infancy, or even in anticipation of birth, but it is not the practice for the marriage to take place until their characters are formed.

When the candidates for matrimony are of sufficient age, and it is intended that the marriage be contracted, there shall be a clear explanation and understanding between the families directly interested. The candidates themselves are not consulted and, as is probable, may never have

met. The preliminary inquiries refer to the health and ages of the candidates, and to the question whether they are children of their parents by blood or by adoption. If an objection be made at this stage by either of the contracting families, the proceedings shall be carried no farther; but if they approve, then the marriage articles are drawn up and the amount of the marriage presents determined upon.

It is not usual, however, for the preliminary proceedings to be conducted by the contracting families. There are invariably mutual friends of the families who perform that office, and who are known as negotiators or go-betweens, a principle which not only governs in this highest and most sacred contract, but in almost every other contract or dealing in which Chinese are the parties.

There is to be no trifling or flirting after the affiance has been regularly made. If the family of the intended bride should repent having entered into the contract and refuse to execute it, the person amongst them who had authority to give her away shall receive fifty blows, and the marriage shall be completed in accordance with the original contract. And to justify the punishment as well as the enforcement of the contract, it is not necessary that it be reduced to writing. It will be sufficient evidence of the agreement between the parties if the marriage presents have been accepted.

The rule works both ways. If the family of the intended bridegroom, after having agreed to the contract, repents thereof, or seeks to avoid it by making marriage presents to another woman, a similar punishment shall be inflicted on the person among them who had authority to give him away, as in the case of the bride, and the marriage shall be completed in accordance with the original contract.

The law has in view the requirement of the utmost good faith in the marriage negotiations and the fulfilment of the stipulations of the marriage contract. It will not tolerate deception of any kind, nor will it permit a marriage contract to be annulled, except for causes specially provided for, which will be stated hereafter. As the affianced parties have no share in the negotiations, it will be seen that the respective families are held responsible, and that the penalty for any unseemly conduct attaches to them and to the negotiators or go-betweens when they have not been open and frank in the performance of their duties as prescribed by custom.

After the marriage the husband may proceed, if he has not already done so, to fill his house with as many concubines as he feels competent to support; but there can be but one wife in the house, and she is the superior female in rank and authority. The children born in such a home, whether the children of the legal wife or of the concubines, are considered the children of the former, and they regard the legal wife as their mother.

The husband is permitted to choose his concubines from females of any grade. He cannot force a woman, however low her grade in the scale of life, to become a concubine; but, if willing, he may choose a slave, and all the concubines are of even rank among themselves. The Code is explicit in denying to the husband the right to degrade his wife to the rank of a concubine and fixes the punishment should he attempt so to degrade her; but there are some authorities who have concluded that for sufficient reason the wife may be degraded. I rather, however, incline to the opinion that, when the reason would be sufficient to empower the husband thus to humble his wife in her own home, he would have the right to divorce her, which would be more honourable to him and less

degrading to the family. The language of the Code is: "Whoever degrades his first or principal wife to the condition of an inferior wife or concubine, shall be punished with one hundred blows. Whoever, during the lifetime of his first wife, raises an inferior wife to the rank and condition of a first wife, shall be punished with ninety blows, and in both cases, each of the several wives shall be replaced in the rank to which she was originally entitled upon her marriage."

Of the absolute impediments to marriage, it has been noted that, while the law gives no age for the male or female, custom has named the age for each, which is generally respected, so much so as to become the rule, with very few exceptions. Custom further recommends suitability of age on the part of the contracting parties, and opposes marriages between young girls and old men, as it also does marriage before the age when puberty is usually attained. If no notice has been given in the marriage contract, disease and other defects, such as insanity, deafness, and dumbness, would be classed as absolute impediments. A eunuch, of course, is not permitted to marry. As he is compelled to serve and live in the palace, that office alone would debar him from marrying, if nature or the hand of man had not unfitted him for married life. But there are eunuchs who were the fathers of children before their mutilation, and such may obtain permission to visit their families. And one who has resided in Peking long, and has taken the trouble to study the intrigue of palace life, need not be informed that a eunuch has, more than once, acquired the influence and power to direct the policy of the central government, and the greatest nobles of the Empire have thought it prudent not to oppose openly such influence. When a eunuch has risen to such a height of honour and influ-

ence, he will probably crown it by taking a wife *pro forma*, and adopt a son for the succession.

There are several impediments to marriage on account of relationship, and it is always implied that those who bear the same family name are related. At one period of Chinese history the number of families may have been the same as the number of clans. The idea is at present alive to the extent that marriage within the clan, as well as within the family, is forbidden. If the grade of relationship is agnatic, the marriage is prohibited. It is the opinion of George Jamieson that while cognates cannot marry any one of the generation above or below, they may marry any one of the same generation, but not agnate. For the relationship by adoption, says Möllendorff, the prohibition does not remain in force after the first adoption has been dissolved by a new one.

There is no impediment, as relatives, to marriage between the husband and his wife's sister. Before 2000 B.C. the Emperor Shun married the two daughters of Yao, and ever since such marriages have been of frequent occurrence in China. And wives do not customarily object, because as the husband may marry one of his concubines after her death, she would rather have her sister take her place and share his affection. As there cannot be a legal marriage between those bearing the same family name, there is therefore no relationship between the relatives of the husband and those of the wife, and no impediment in the Chinese mind to a marriage between a husband and his deceased wife's sister. That is the logic of their reasoning.

But, there being not more than four hundred and forty family names for a population of four hundred millions, it is obvious how severe in application is the doctrine prohibiting marriages between those bearing the same name.

Whole communities have been known composed of people with the same surname. When any member of such a community desired to marry, he had to undertake a long and expensive journey or voyage. The Chinese, however, have not been slow in finding expedients to avoid much of the hardship. In the case where the name has two distinct origins, persons of the same surname may intermarry, provided their line of ancestry can be traced from the separate stock. On the other hand, families of the same ancestry have branched off under a different name and do not intermarry. The broadest distinction in favour of the expedient seems to have been made during the reign of the Emperor Yung-lo, when those families which took part in the grain transport were called military families and the others, families of the people. Since that reign this distinction has been maintained and intermarriages permitted.

Impediments to marriage on account of affinity are very succinctly stated by Möllendorff. "Marriage is not allowed with sisters of the wives of ascendants or descendants, with the father's or mother's sister-in-law, or with the sister of the son-in-law. It is forbidden with the step-daughter and with female relations within the fourth degree of relationship, with a widow of a relative of the fourth degree, or with the sister of the widowed daughter-in-law. Marriages with widows of relatives of a nearer degree are considered incestuous. Decapitation is the punishment for marriage with the father's or grandfather's former wives, or with sisters of the father." According to a Jewish custom, marriage between a widow and her deceased husband's brother was not interdicted, but only allowed when the widow was childless. In ancient times such was the custom among other nations and it is still the custom in the Caucasus; but Jamieson

and other high authorities have expressed the opinion that it is not practised in any of the provinces of China because of the severe penalty for it, which is, that "whoever marries his brother's widow shall be strangled."

In China public opinion is very much against a widow's marrying at all, and one who refuses all offers of marriage is held in the highest consideration. The greatest importance is attached to the period of mourning and time to remain widowed, and any departure from either is regarded as most reprehensible. During the period of mourning every propriety would be violated should any one marry whose duty it was to conform to any of the rules for mourning, and besides there is a prohibition against marrying during such a period.

Another prohibition is that an official is not allowed to marry a woman under his jurisdiction, or out of a family that has an interest in the performance of his official duty. And in China no official can hold office in his native province, nor can he sit as judge in a case if one of the parties be related to him. But if the official has been adopted into a family of another province, he can acquire a right of domicile in the province of his adoption and may then hold office in the province originally his native one.

The principle of Roman law which prohibited a marriage between persons who stood to each other in the relation of guardianship or of tutor and pupil, was not necessary in China, because only relations or adopted fathers are able to exercise the right of guardianship and to acquire through it the power of a parent, and between such there are prohibitions against marrying.

The Code enjoins equality of rank between persons who marry, and an official is not allowed to marry an actress or a singing girl. Such marriages are also forbidden to the sons or grandsons of nobles with hereditary

rank. The punishment is degradation in rank and ultimately the loss of it.

In China difference of religion has no influence upon marriage. A prohibition is aimed at those Buddhist and Taoist priests and nuns who do not shave their heads but bind the hair in a net or head-band; these are not allowed to marry. But when such shave their heads and plait their hair like other Chinese, they may marry. If a priest should obtain a woman under pretence that she is to marry another and then marries her himself, he is severely punished.

A male slave cannot marry a free woman, nor can a runaway female slave marry. In the latter case the reason is that the female slave can only lawfully be given away by her master.

The impediments which have been pointed out render a marriage already concluded null and void, but ignorance of them at the time of the marriage exempts the parties from punishment.

"In accordance with the sense of the marriage contract the parties who signed it are punished if the marriage laws have been transgressed, the go-between only if he was aware of the illegality; but husband and wife are not punished unless they were *sui juris*. If the father, grandfather, or uncle signed the contract, they alone are punished; if it was another relation, he is punished as principal, and husband and wife as accomplices. The purchase money is in each case forfeited, except when the parties were ignorant of the existence of the impediment." (Möllendorff.) The Chinese do not admit that impediments to marriage can be removed by a dispensation, and with the Jews dispensation was also inadmissible as a means for removing such impediments.

Although a wife shares the rank and honour of her hus-

band, she owes him implicit obedience and does not even have the privilege of leaving the house without his consent. The law which governs the relations of husband and wife to each other assigns to the wife a very servile position in the household. Marriage gives her but few rights, and she is practically in the power of her husband. After the signing of the contract of marriage and the naming of the day she goes to the house of her husband and from that moment she ceases to have a wish which he is compelled to respect. She has no right to demand of him conjugal fidelity, but if she sins against it she commits a heinous crime. And if she disobeys her husband, he may sell her to another as a concubine. As in Roman law, the wife in China after the death of her husband belongs to his family. If she leaves it either to return to her own or to marry again, she not only leaves behind her husband's estate, but all that she brought with her. But there is, at least, one provision favourable to the wife; if the husband should be the oldest member of his stock then in power, after his death the power would be transferred to the wife, and she would manage the family estate.

Unless it is otherwise stipulated in the contract of marriage, all the property of the wife, however inherited or acquired, belongs to the husband; but the husband is not responsible for her debts, unless she was *sui juris* before marriage or had no family, when he would be responsible. It is not the custom, however, to refuse to a divorced wife or a widow permission to take her jewellery and silks away with her.

If a husband wishes to change his place of residence, the wife must follow, if he requires her to do so. The better class of Chinese usually leave their legal wives at home when they wish to travel, and take with them their concubines.

The natural cause of the dissolution of a marriage is the death of either the husband or the wife, but there are other causes which are prescribed by law. In addition to the impediments to marriage, which are causes for divorce, the husband, if he catches his wife in the act of adultery, may kill both adulterers; but if the wife is not killed, she may be sold into concubinage, though the money is forfeited. If the adulterer should kill the husband, the wife is strangled.

A divorce may take place: —

1. If both husband and wife are willing to dissolve marriage, *e.g.* owing to incompatibility of temper.

2. If the wife leaves the home against the will of the husband, should she marry whilst absent, she is strangled.

3. If the wife beats the husband, which is probably very rare in China.

4. If the marriage contract contained false statements.

5. If the wife has one of the seven faults: barrenness, sensuality, want of filial piety toward the husband's parents, loquacity, thievishness, jealousy and distrust, or an incurable disease.

But none of the seven causes mentioned in number five above will justify a divorce by the husband if any of the three following reasons against a divorce should exist: (1) if the wife has mourned three years for her husband's parents; (2) if his family has become rich after having been poor previous to, and at the time of, the marriage; and (3) if the wife has no parents living to receive her back again.

When the marriage is dissolved, the parties are as free as if they had never been married, and the wife returns to her family, if they will receive her; but the children remain with the father, and the purchase money, if the husband was not the cause of the divorce, is given back

to him. Should the family of the wife refuse to receive her, she becomes *sui juris*.

There can be no relationship through the wife after the divorce. The laws of nearly every nation provide for the legality of children born within a certain period after the dissolution of marriage; but as to the divorce of a pregnant wife in China, the law is defective in this respect, though after the wife leaves the house of her husband not to return again, the children born afterward cannot be claimed by him.

The husband generally gives the divorced wife, when she leaves his house, a bill of divorce. The action for divorce is not as open to the wife as to the husband — she can only bring the action if she thinks there will be no objection on the part of the husband. But if she has been cruelly beaten by her husband, the law taking no notice of moderate punishment, or if she has been deceived by false statements in the marriage contract, or if the husband has become a leper, or has not been heard from in three years, the action for divorce may be begun by the wife.

Another custom is, that when a widow marries a widower she belongs spiritually to her first husband and is buried with him at her death. The husband can marry immediately after the death of his wife, but, as elsewhere stated, custom is very much opposed to a widow's marrying again, and, in especial, until she has mourned three years for her dead husband.

There is a custom, said to be exclusively confined to the prefectural city of T'ing Chao, in the province of Fukien, which allows one woman to fill the office of wife for several men. The cases which have come under the observation of writers on the subject have been mostly those where several brothers, by reason of their poverty, have one woman with whom they live alter-

nately. This is called polyandry, and wherever practised, child murder is also practised.

The reason for the custom of polyandry is not the opposite of the reason for concubinage. It would appear that sensuality exercised quite an influence in the former, but it does not always lead to the latter custom. The doctrine of filial piety is in a great measure responsible for concubinage in China. There must be some one to worship at the ancestral graves; and if the wife should prove barren, then the husband may take unto him a concubine, and the children begotten of her shall be the children of his legal wife and perform the duties demanded at the ancestral altar. Abraham took Hagar as a concubine; but when his wife bore a son, he divorced Hagar. But Abraham had other concubines besides Hagar. Jacob had two wives, Leah and Rachel, and, besides, two concubines, Bilhah and Zilpah, whose sons were all legitimate. Esau had many wives, and King Solomon excelled all in the number and splendour of his family household.

But whether the child be born of the legal wife, or of a concubine, or be adopted, the power of both parents is absolute. The father first and, after his death, then the mother, may do with the child as he or she likes. He may not only chastise, but even sell, expose, or kill it; and if the child is a girl and the parents are poor, it is often enough the custom to kill it. Such is the theory of parental power; but when carried to the extreme there is a public sentiment in China which condemns it, and there are official proclamations against infanticide.

The power of the father over his son does not cease as long as the father lives, unless the son enters the government service, and even then, with the permission of the Emperor, the power may still be exercised. If the child is

a daughter, the power ceases to exist when she marries, for then she passes into the power of her husband. Should the marriage be dissolved, she returns to the power of her father, or as a widow she remains with her husband's family.

It is the first duty of a child to show reverence and obedience to the parents as long as they live, and to nurse and support them. If the father, mother, or grandparents are over eighty years old, or feeble and ill, the son shall remain at home, unless another son over sixteen years old lives with them. Filial piety or duty is called the fundamental virtue, and any neglect of it on the part of the children is punished by officials upon complaint.

A most important institution under this division of Chinese law is that of adoption. This institution has been referred to, but a more extended reference is demanded. It is estimated that in China five per cent of all the families possess adopted children, and the reason given by the ancient Greeks is the same as the reason given by the Chinese in favour of adoption. "The dying out of a family was to be prevented, as by the desolation of the house the dead lost their religious honours, the gods of the family their sacrifices, the hearth its flame, and the forefathers their name among the living." Nearly all adoptions, says Möllendorff, take place in childless families, and among these the greater part are adoptions of sons. According to the same authority, a man may adopt a person as son or daughter, or, if he formerly had sons, as grandchild, but not as brother, wife, or concubine.

"Adoption, like marriage and the acquisition of slaves, rests in China upon purchase, concerning which a contract is made in which only the words 'wife,' 'son,' 'daughter,' or 'slave' are differently inserted. The most frequent case is the adoption of a nephew by a childless uncle.

This nephew is generally a younger son, who then leaves his father's family and becomes the grandson of the adopted father. If there is only one nephew whose duty it is to continue the line of his father, he has to marry another wife whose male issue is considered that of the uncle. The nephew has thus to perform the double sacrifice and is called 'one son with two ancestral halls.' He mourns three years' term for his adoptive father and only one year for his parents. If he leaves only one son, the latter has, like his father, to marry two wives, the issue of one is that of his grandfather, that of the other continues his uncle's family. When two sons are obtained, the ancestral hall is completed. This, then, constitutes the only case where a Chinese may have two wives at the same time." (Möllendorff.)

There are no special requirements prescribed for one who adopts another, though it is usual for the adopter to be older than the person adopted, and foundlings under three years old may be adopted without ceremony. The main idea, however, is that only children out of families who bear the same family name may be adopted, as otherwise, according to the Chinese, the difference between families would soon cease to exist. After the death of the husband the widow has the power of adoption possessed by her husband, but she has to ask the consent of the nearest male relation of her late husband. She has the right to prevent the legitimate or adopted sons of her former husband from giving themselves in arrogation against her wish. The adoption of one's younger brother or one's uncle, even if the latter is younger than the nephew, is not allowed; for the same reason the uncle may not adopt a nephew who is older or of the same age as himself.

When the father is alive, but insane and poor, so that by the arrogation the son acquires the means of supporting him, neither his consent nor that of the nearest relative

need be asked. The same is true if the father is far away, though on his return he may claim back his son.

There are, however, some requirements which must be respected by any one who wants to give himself in arrogation. The consent of the nearest relations of his former *pater familias* must be asked; and if there be elder brothers, their consent also is to be requested.

"A man having sons of his own may not adopt a stranger as their elder brother, but he may adopt grandchildren as sons of his legitimate or adopted sons. After his death the latter have the right to dissolve such adoptions. Brothers may, after the death of their parents, give their elder or younger sisters into adoption, but not without their consent. Even after death a *filius posthumus* may be adopted for a man by his relations or friends; in case he died without any male descendants, preference is given, in such cases, to a nephew of the deceased. By special grace the Emperor may do this for princes of the blood or high dignitaries, but in all cases with the consent of the male relatives of the deceased." (Möllendorff.)

Arrogation and adoption are in effect the same. It would seem unnatural, but it is true that an adopted son has a better position in the family than the natural one, for the former cannot be sold without the consent of his natural parents. The only exception to this rule is when a second adoption would be beneficial. In the matter of inheritance, the natural and adopted sons take precedence of the daughters. Should a son be born to the adopter after the adoption, he may cancel the adoption, provided the parents of the one adopted are willing to receive him back; but if no member of his family lives to whom he can return, he must be kept. The only exception to this rule applies to officials who may be left without a family. It

may happen that at the death of the parents there are young children (under seven years) and no one who has the right to the power of a parent; in such a case the power devolves upon one of the male relations of the surname if no testamentary tutelage has been ordered. If there should be no male relation of the surname, then a male relation of a different surname is chosen. But if no relation can be found who is willing to take the responsibility, a guardian has to be appointed. However, in China it would appear almost impossible to be without any such relation.

A guardian has the power of parents and retains it, with certain exceptions, as long as he lives. If the child has property, that remains his; but the guardian has the full usufruct of it.

"Excepting where the father gives himself in arrogation, so that his children come under the power of his arrogator, the father's power may cease with his will.

"1. By sale into adoption, by which the son acquires agnate rights in the family of the adopted father.

"2. By sale of a daughter into marriage, she becoming an agnate in her husband's family and entering his *manus*.

"3. By permission to the children to enter a religious order. They then lose their family name and leave the family connection altogether.

"4. By exposing the children in tender age. The finder may lawfully adopt them if under three years of age. If older, it is not permitted to expose them, and only the ways mentioned under Nos. 1 and 2 are left to the father to rid himself of his child." (Möllendorff.)

The penal idea of the Code so governs in every provision that to fail in the observance of the smallest detail is a punishable offence. If one should appoint his

heir and representative unlawfully, he is punished with eighty blows. If the wife is over fifty years of age and has no son, the husband is allowed to appoint the eldest son by a concubine to the inheritance; but if any other than the eldest son is appointed, it is a violation of the law. If a person not having a son himself educates and adopts the son of a kinsman having other sons, but afterward dismisses such adopted son, he shall be punished with one hundred blows, and the son so dismissed shall be sent back and supported by him. To ask for and to receive into his house as his adopted son one of a different family name is to be guilty of confounding family distinctions, and is punishable with sixty blows, the son so adopted being returned to his family. And the principle and punishment applies to one who gives away his son to be adopted into a family of a different name, the son in the latter case also returning to his family. On failure of children, the relative appointed to the succession shall be the eldest in the succession, otherwise it is a violation of the law followed by punishment. Whoever brings up in his family as a slave the male or female child of a freeman shall be punished with one hundred blows, and the child shall regain its freedom.

There is a section in the Code with humane provisions for the protection of stray children. These little helpless beings are guarded — at least in theory — against the unfeeling part of society. They are to be taken when found to a magistrate, whose duty it is to see that they are properly cared for. And any one who receives, detains, or sells such a child for marriage, or adoption, or as a slave, or fails to present it to a magistrate within a reasonable time after coming into his possession, shall be punished with from eighty to one hundred blows, and for the more serious of the above offences shall be banished for two years and a half. Whatever disposition has been made of

the child contrary to law is annulled, and it regains its freedom. If an unmarried man gets a child by a girl, he must marry her. If he has a wife, he must then take her as a concubine; but in any event the child is legitimate. Illegitimate children and the children of prostitutes bear the family name of the mother and are under her control and power.

As the Roman doctrine of agnatic and cognatic relationship is recognized by Chinese law, the explanation given of it in Maine's "Ancient Law" will not be out of place in this chapter.

"Cognatic relationship is simply the conception of kinship familiar to modern ideas; it is the relationship arising through common descent from the same pair of married persons, whether the descent be traced through males or females. Agnatic relationship is something very different; it excludes a number of persons whom we in our day should certainly consider of kin to ourselves, and it includes many more whom we should never reckon among our kindred. It is, in truth, the connection existing between the members of the family, conceived as it was in the most ancient times. The limits of this connection are far from conterminous with those of modern relationship.

"Cognates, then, are all those persons who can trace their blood to a single ancestor and ancestress; or, if we take the strict technical meaning of the word in Roman law, they are all who trace their blood to the legitimate marriage of a common pair. 'Cognation' is, therefore, a relative term, and the degree of connection in blood which it indicates depends on the particular marriage which is selected as the commencement of the calculation. If we begin with the marriage of father and mother, cognation will only express the relationship of brothers and sisters; if we take that of the grandfather and grandmother, then

uncles, aunts, and their descendants will also be included in the notion of cognation; and, following the same process, a large number of cognates may be continually obtained by choosing the starting-point higher and higher up in the line of ascent. All this is easily understood by a modern; but who are the agnates? In the first place, they are all the cognates who trace their connection exclusively through males. A table of cognates is, of course, formed by taking each lineal ancestor in turn and including all his descendants of both sexes in the tabular view. If then, in tracing the various branches of such a genealogical table or tree, we stop whenever we come to the name of a female and pursue that particular branch or ramification no further, all who remain after the descendants of women have been excluded are agnates, and their connection together is agnatic relationship. I dwell a little on the process which is practically followed in separating them from the cognates, because it explains a memorable legal maxim, '*Mulier est finis familiæ*' — a woman is the terminus of the family. A female name closes the branch or twig of the genealogy in which it occurs. None of the descendants of a female are included in the primitive notion of family relationship.

"If the system of archaic law at which we are looking be one which admits adoption, we must add to the agnates thus obtained all persons, male or female, who have been brought into the family by the artificial extension of its boundaries. But the descendants of such persons will only be agnates, if they satisfy the conditions which have just been described.

"What, then, is the reason of this arbitrary inclusion and exclusion? Why should a conception of kinship, so elastic as to include strangers brought into the family by adoption, be nevertheless so narrow as to shut out the de-

scendants of a female member? To solve these questions we must recur to the *patria potestas*. The foundation of agnation is not the marriage of father and mother, but the authority of the father. All persons are agnatically connected together who are under the same paternal power, or who have been under it, or who might have been under it if their lineal ancestor had lived long enough to exercise his empire. In truth, in the primitive view, relationship is exactly limited by *patria potestas*. Where the *potestas* begins, kinship begins, and therefore adoptive relatives are among the kindred. Where the *potestas* ends, kinship ends, so that a son emancipated by his father loses all rights of agnation. And here we have the reason why the descendants of females are outside the limits of archaic kinship. If a woman died unmarried, she could have no legitimate descendants. If she married, her children fell under the *patria potestas*, not of her father, but of her husband, and thus were lost to her own family. It is obvious that the organization of primitive societies would have been confounded if men had called themselves relatives of their mother's relatives. The inference would have been that a person might be subject to two distinct *patriæ potestates*, but distinct *patriæ potestates* implied distinct jurisdictions, so that anybody amenable to two of them at the same time would have lived under two different dispensations. As long as the family was an *imperium in imperio*, a community within the commonwealth governed by its own institutions of which the parent was the source, the limitation of relationship to the agnates was a necessary security against a conflict of laws in the domestic forum."

CHAPTER V

TENURE AND TRANSFER OF PROPERTY

THERE is a note to section eighty-eight of the Code in which is intimated a doubt whether the tenure by which land is in general held in China is of the nature of a freehold, and vested in the landholder without limitation or control, or whether the Emperor is in fact the universal and exclusive proprietor of the soil.

It is a fundamental doctrine that the right of a state to its public property or domain is absolute, and excludes that of its own subjects as well as that of foreigners. In China this doctrine is distinctly laid down in its broadest sense in the classics and in the Book of Odes, and is recognized by Chinese as not to be questioned in theory. A translation from the Book of Odes asserts the doctrine that all land in the world is the property of the Emperor, and that all dwellers thereon are his subjects. But China and her conservative bureaucracy have been made to experience more than once within recent years that there are dwellers on land other than Chinese, and that their Emperor's claim, according to the Book of Odes, is very much limited in boundary lines. Whatever may be the theory as to the tenure of land in China, it is a well-known fact that the possessors of land regard such possessions as the most secure, if not the most important portion, of their property. And land is sold as absolutely, and the title deeds are as valid, in China as under any government.

But the business man will be interested in another fact that certain sections of the Code show that the practical view of the question of tenure is somewhat qualified. By the seventy-eighth section the proprietor of land seems to be almost entirely restricted from disposing of it by will. By the eighty-eighth section it appears that the inheritors of land share it among them in certain established proportions. By the ninetieth section those lands are forfeited which the proprietors do not register in the public records of the government, acknowledging themselves responsible for the payment of taxes upon them. Allotments of land even appear in some cases liable to forfeiture merely because they are not cultivated when susceptible of confiscation. By section ninety-five no mortgage is lawful unless the mortgagee actually enters into a regular contract duly authenticated and assessed with the legal duty by the proper magistrate, and has the produce thereof conveyed to him, and makes himself personally responsible for the payment of taxes until the lands are redeemed by the proprietor. It will be further perceived that, except in case of a lawful mortgage, no person, other than the actual proprietor of the land, is allowed to engage for the payment of taxes upon it, and that therefore such engagement is in some degree a test of property.

But while the Chinese concede that their Emperor is the owner of all China, and that they are the subjects of his will and power, the land is nevertheless parcelled out among them, and they enjoy possession as full as any people so long as the assessments of the government are regularly paid.

There is, however, a military tenure, which entered into the land laws of China after the conquest by the Manchus, and which I must refer to before explaining the

tenure by which land is commonly held. This military tenure is similar to that which William the Conqueror enforced when he portioned a large part of England among his followers. The Manchu conquerors portioned certain parts of China among their followers and made grants to them for the land thus confiscated. Such lands are exempt from taxation, and while the conditions of military tenure do not so clearly appear as they did in the terms expressed in the grants of the Norman conqueror, there was an implied condition that the grantees were to render military service whenever it should be demanded of them.

In China those who occupied the land at the time of the grants or petitions were generally permitted to remain and pay rent to the new owners, but in some cases they were driven off to make room for their conquerors. The change brought with it many hardships. Rents were raised in proportion to the extravagance of the Manchu owner, and the greed and the indifference of a conqueror were substituted for the considerate and liberal policy of the former native rulers.

At one time the land that had been so portioned among the Manchus could not be alienated, alienation being prohibited by the principle of military tenure; but the rule has been relaxed, and much of this land has been purchased from the conquerors by the conquered, as the Chinese are more thrifty and provident than the Manchus.

In this connection another tenure, different from the common tenure, may also be referred to. It is in the nature of a grant to certain clans or families on the condition of their guarding the frontier of the Empire and annually furnishing a certain number of boats and men for transportation service. The land so granted was not entirely exempt from taxation, but the amount of the

assessment was much smaller, and it could not be alienated outside of the families affected by the particular service. The distinction has practically disappeared, and now about nine-tenths of all the landed property in China is held by common tenure.

A grant of unoccupied land may be obtained from the government, and this refers to land which was originally waste, or which at one time was cultivated but for some cause has been abandoned. The government is the owner of all such land, as well as the final reversioner of all that is arable but has become tenantless from failure of heirs or by abandonment. If a Chinese wishes to become the owner of a piece of waste or abandoned land, the simple process is to enter into possession and bring it under cultivation. When he has done this he applies to the district magistrate, who issues a proclamation setting forth the facts, and if the old owner wishes to retain title or recover what may have been lost, he must come forward and resume the cultivation of the land. If this is not done on his part within a reasonable time, the applicant is granted a title deed which is good against all the world. A title so acquired gives the owner the right to deal with the land at pleasure. He may freely sell, mortgage, or lease it without interference on the part of the government, and there is no difference in the terms used to convey land of this character from those used in conveyances which are in daily use among business men.

The idea of tenure is inseparable from the idea of property in land, and pervades the law of real property in almost every country. In the eye of the ancient law a greater dignity attached to a freehold, and more form and solemnity were required in the conveyance of land than in that of chattels. This was because personal property was of a more transitory nature and entered much more into

commerce, and consequently required the utmost facility in its incessant circulation. Even in the early periods of history, before conveyances of land were in writing, such conveyances were accompanied with overt acts equivalent, in point of formality and certainty, to deeds. It may be said that the universal law now is to reduce to writing the terms of almost every transaction which relates to land, and that the tenure of highest dignity which one may hold to land is in the form of a written instrument called a deed.

And China is not behind other commercial nations in safeguarding the transfer of landed property, nor are her laws less appreciative of the importance of such transfers. This will now be inquired into.

The force of custom again makes its appearance when one examines the tenure by which property is held and the form used for its transfer. There are hardly any two provinces in China where the form for a deed is the same. This is not only true with reference to the provinces, but there are often localities in the same province where the form is different. It would seem that such a difference would give rise to trouble, but in looking closely into deeds of different forms one must see that the technical expressions for the conditions of the agreement are substantially the same everywhere in the Empire. Therefore it is only necessary to procure the usual form of a deed used in any important local centre of business, and modify or change it according to the special usages and customs of other localities, which there should be no difficulty in ascertaining.

The first essential consideration is that the subject-matter of the agreement should be clearly stated. There should be no ambiguity in setting forth the conditions. The legal and technical terms which have been brought

into use by the custom of the locality where the property is situated must be employed. It is advisable never to abbreviate a character used in a deed, but to write it in full, and when a character has been omitted it may be interpolated, but the fact must be noted at the foot of the deed, and the character so interpolated should be written in full in the note.

It is of the greatest importance that boundaries be accurately defined and the property as accurately described. When there is a right of way over the property of another, it is indicated by the words "going out and coming in" by a certain road, to be also described as well as defined by boundaries. It is the custom for the owner of the land over which the right of way exists to sign the deed as a witness. This is required as a precaution against his extending his holding in the future by enclosing the common way. Should he refuse to sign, the vendor ought to assert the right of way according to usage and testimony in confirmation, and compel respect for the custom by the proper legal proceedings. And if a right of way for an irrigating channel or for drainage over another's land be required, it should be expressed in the deed.

If one of the boundary lines of the piece of land described in the deed should be in the middle of the street, that fact is peculiarly indicated by the placing of the boundary stone, and common usage has made this imperative. The stone is placed at the side of the street, and the characters inscribed on it mean that the actual boundary is not at the site of the stone, but outside, that is, in the middle of the way. And the side of the stone over which the characters have been inscribed ought to look on the adjoining property.

Sometimes it is inconvenient to erect a stone as the

boundary mark; when such is the case, a boundary line may be substituted, by which is meant the "driving of a longish post into the ground and then drawing it out and filling the hole with lime." In all cases when a boundary line is used, the fact should be noted in the deed and in the property roll; the latter will be explained later on. Boundary marks should always be set in the presence of public officials, whose duty is to give due notice to the neighbouring proprietors.

It is a frequent custom with families that possess large properties to prepare two rolls: one contains copies of all deeds with explanatory notes, and is deposited in some safe place; the other contains abstracts only of the deeds, and is deposited with authentic documents in the archives of the family.

In all Chinese deeds certain words are used for seller and buyer, and these mean about the same as in English deeds. When a third party is selected to draft the deed, he signs his name at the bottom of the instrument with a character which shows that he was the drafter of it. By custom the drafter is selected by the seller, but the buyer has the right to demand that he shall be an upright and experienced man. If the seller should draft the deed himself, then he must also sign at its foot with a character which signifies that the writing is his own. The rule is that there shall appear on every deed the character proper to indicate without mistake the name of the person who wrote it.

But, as elsewhere stated, it is scarcely possible to conceive of a transaction between two Chinese without the intervention of a middleman or go-between. This is a character inseparable from Chinese business methods. There may be more than one middleman, and those who are employed to negotiate directly for the conclusion of the

contract between the seller and buyer are styled the "original middlemen"; but when, as is often done, others are invited to sign as witnesses, these last are styled the "invited middlemen." The principal witness, however, is a near relative of the seller's family, his father, uncle, or nephew, and is styled "one who saw the sale."

The names of the seller and middlemen are written in full in the deed, and underneath each subscribes his own private mark. The buyer does not sign, and the middlemen who sign are not understood as guaranteeing the title, but rather as guaranteeing that the seller is what he represents himself to be and that the transaction is in good faith. The employment of middlemen is not thought to be strictly necessary to the validity of a sale, but it is seldom that sound business prudence is satisfied with less than two as witnesses to the transaction, and there are often as many as eight or ten.

There is this peculiar clause in a Chinese deed which is made in deference to, if not demanded by, the law governing the family ownership of property. It is "that the seller, being in want of money, and having first offered the land to his kinsmen, who decline to buy it, has arranged through the middlemen to sell it to so-and-so and for such a price."

After the insertion of such a clause and after conformity to the essential requirements named above, the transaction is still incomplete without the village *ti-pao*, or head-man, whose importance has been referred to in the chapter on Government.

The seal of the *ti-pao* must be attached to the deed before it can be registered in the office of the district magistrate. If the deed is not registered, and it is the duty of the buyer to have it registered, the land is by law subject to confiscation. The fee for registration, includ-

ing the proper and improper charges, is about six per cent of the amount of the purchase money, but the amount of the purchase money is not always correctly stated in the deed. An example is given by George Jamieson of the way the heavy tax for registration is avoided. The price is understated thus: "If taels 3000 be the real price, the sale will purport to be made in consideration of taels 1500, or the seller will execute two deeds, in one of which he purports to convey the ground for, say, taels 1400, and in the other for taels 1600, both in identical terms. Only one of these goes to the magistrate to be stamped, the other is retained by the purchaser as a receipt for his money."

After the deed has been registered by the magistrate it is returned to the owner with an official endorsement of the transaction. In this endorsement are set out the names of the seller and buyer, the district in which the land is situated, the amount paid as transfer fee, and the amount of the annual tax for which the new proprietor is liable. On the deed so returned the magistrate's seal should appear in several places, under the form of an impression in red, and from such a red impression the deed is popularly known as a "red deed," which is the highest form of title obtainable. The ingenuity, however, which names a false price to avoid the payment of the customary charges has been exercised in the direction of substituting unstamped deeds, but these last are known as "white deeds" and are always regarded with great suspicion.

At the open ports of China foreigners have the right, under the treaties, to purchase land from Chinese, but the latter, instead of executing a deed in the usual form, execute to the foreign purchaser a lease in perpetuity, which is registered through the consulate of the purchaser, and only a nominal fee is charged by the Chinese authorities.

There are many wealthy Chinese who prefer to place their property under the protection of a foreign flag, and much of the landed property within the limits of the treaty ports is really owned by Chinese, though registered in the name of foreigners. A lease in perpetuity is executed to a foreigner, who has it registered through his consulate, and when this is done the foreigner gives to the real owner a private paper, in which appear the conditions of the lease in perpetuity.

A recent decision of the British Supreme Court at Shanghai has recognized the system of tenure ruling in China, and the principle that land also in China has certain qualifications impressed upon it by the laws of the Empire. The decision clearly states the principle of the *lex loci rei sitæ* and applies it as governing controversies with reference to landed property in China. This decision dissents from a former decision of the same court, in which it was held that a British subject who owned land in China should have his rights thereto adjudicated according to British law. It is the law of western nations that in all questions respecting immovable property the *lex loci rei sitæ* prevails. And now the British Supreme Court has adjudged it both right and useful that the same rule should be acted upon, where British subjects are concerned, in the administration of justice in China. But the sounder view appears that after China has surrendered the jurisdiction of her courts in the case of property owned by foreigners, the laws of the countries of such foreigners ought to govern.

While the invariable method of transferring land is by deed poll made by the seller and subscribed by him and the middlemen, as explained, yet such a deed, although effective, should not be understood as answering to the full definition of a deed in English law. In China it is advisable

for the seller and the middlemen to affix their marks, and not their seals, as the use of the seal is objectionable as giving rise to questions of identity.

Another way of transferring property is by mortgage. In the chapter on Law the meaning and the effect of a mortgage were explained, and the reader is referred to that chapter for the definition of a mortgage and the analysis of that form of conveyance. It is only necessary to state, in this connection, that the effect of a mortgage is that the land changes hands in consideration for a sum of money paid down, but the original owner is entitled, on repayment of the money, to get back his land. The mortgagor does not pay any interest for the use of the money. The mortgagee enters into possession, and the rents and profits accruing from the land are accepted in place of interest. The land is exchanged for the money, or, in other words, the land is lent and not the money. The money cannot be demanded back, though the land can be, but the owner must come forward as prescribed by law to redeem it, and if he does not, the occupant then becomes the owner. There was once great confusion with reference to the right of redemption. The time within which the right could be exercised was very indefinite, and in order that there should be more certainty a law was passed in the seventeenth year of Kien-lung which enacted that the right of redemption must be exercised within thirty years, unless the time was specially mentioned in the mortgage. "This form of transfer would appear to have been the original and, perhaps in early times, the sole form. The final alienation of land, especially of old family land, though not absolutely forbidden, was considered so improbable that the presumption was always against it. The land indeed was not in theory deemed to be strictly the personal property of the

occupant or owner for the time being, but rather the heritage of the family or tribe generally of which the occupant was a member. Subject to his life interest, they all had a more or less qualified interest in the reversion, and on his death it was bound to come to some one or other of them with further reversionary rights over it. The theory, however, was not carried so far as to forbid the actual occupant from dealing with it all. If very hard pressed he might raise money on his land, but in doing so he was bound as far as possible to have regard to the family rights, either by reserving the right of redemption or by giving his kinsmen the first option of purchase." (George Jamieson.) But the theory in favour of family rather than individual ownership has felt the influence of the spirit of modern commerce and has been much modified in favour of liberal trade. Even now, however, as has been seen, a deed conveying an absolute title to a purchaser contains a provision that the land was first offered to the kinsmen of the seller, who had been requested to buy, but had refused.

The distinction should be observed, however, between such a mortgage as has been above described and a mortgage of land as security for money lent to be repaid within a short time. In the latter instance the mortgagor remains in possession of the land, and the mortgage need not be registered. It is usual in such cases for the mortgagor to deposit with the mortgagee the old title deed at the time the mortgage for the temporary loan is made. But in the event of failure to repay the loan as stipulated, the creditor or mortgagee could not sell the land without a decree of sale by the proper court. And if, after the sale, the price proved insufficient to liquidate the debt, there is considerable doubt if the creditor could sue for the balance, unless the right were expressed in the mortgage. If there should be other creditors, it is probable that these

would share equally with the mortgagee the proceeds of a sale made in accordance with a decree.

When a contract is made in which the mortgagor surrenders the equity of redemption, it is called an irrevocable sale; but for the transfer to be legally recognized as irrevocable the law prescribes that the phrase "irrevocable sale" shall be employed in the instrument of transfer. On the other hand, if the right of the equity of redemption is retained, it is expressed by the employment of the phrase "revocable sale." The use of the phrase "revocable sale" further indicates that the seller retains the "root of the soil," while the buyer possesses only the "face of the soil."

In some places when landed property is sold by irrevocable sale, one deed is sufficient, but in some others four deeds are prepared: a deed of revocable sale, a receipt for the rest of the value, a deed of subsequent irrevocable sale, and an acknowledgment of the receipt of alms, or in other cases the total value is distributed over four deeds and different dates are given to them. A valid deed or gift of landed property for benevolent purposes may be made, but it is better replaced by a deed of irrevocable sale.

What is known in English law as a will with the unfettered power of bequest or devise is unknown in China. It is not unusual, however, for a parent to leave written instructions as to his wishes in the division of his property, or he may make the division during his life, but the law of China does not accept the expression of a last wish in such a form as a testamentary devise of property. The rule is that when a man dies, his property, real and personal, is equally divided among all his male children, whether born of his legal wife or of a concubine. When there is no male child, one may be adopted from an agnatic relation,

though a certain order of kinship for adoption is fixed. But when there is a failure of the male line and no adoption has been made, the relations of the deceased sometimes meet in family council and adopt a son, who then succeeds to the whole inheritance. The daughters succeed to the property only when there is a complete failure of male heirs, either natural or adopted.

Another rule is, the succession vests by operation of law, and no ratification by the authorities is required, nor is there any fine or succession duty payable. When there is more than one son, the property can be divided as the sons may agree among themselves, or they can enjoy it in common without dividing it at all. If there is a mother or an unmarried sister to be provided for, the custom is for the sons to live as tenants in common in order to be better able to support their mother and sister. But if it be decided that the property shall be divided, the eldest son by custom may claim an extra share in order to defray the cost of the family sacrifices, the charge of these devolving upon him because of his seniority.

The rules of succession in China have been summarized and stated in the Journal of the China Branch of the Royal Asiatic Society as follows: —

1. Landed property shall descend *in infinitum* to the issue of the last holder.

2. Male issue shall be admitted before the female.

3. When there are two or more of the male issue in equal degree of consanguinity, they shall inherit all together and equally. This rule, of course, applies to the land of the people generally, for with regard to grants made by the crown to the hereditary nobility, the doctrine of primogeniture, or right of the eldest of the males to inherit both title and property, applies much as in English law. Indeed, this custom appears to have taken deeper root in

China and England than in any other countries, for on the Continent of Europe some portion of the inheritance or some charge upon it is, in many cases at least, secured by law to the younger sons. With regard to the disposition of ordinary landed property, the heirs, as already stated, are always at liberty to divide it as nearly as possible into equal parts; and when such division is impracticable, it is the custom to pay in an amount of money from the personality sufficient to bring up the value of the smaller lots to that of the larger, and then to draw for the choice of the portions of the property thus equally divided, in the presence of a gathering of friends and neighbours. Of course the doctrine of *seniores priores* applies in this case also, and a younger brother would not be permitted to divide the landed property in case the elder brothers should elect to hold it intact.

4. All lineal descendants, *in infinitum*, of any person deceased shall represent the last purchaser.

5. On failure of lineal descendants of the purchaser, the inheritance shall descend to his widow.

6. There being no widow living, the inheritance shall descend to the collateral relations, these being of the blood of the purchaser, subject to rules 2, 3, and 4, above cited.

7. In default of the heirs above mentioned the land shall revert to the government, and it is the duty of the head-borough and villagers to report such cases to the local authorities, on pain of punishment as abettors in an attempt at concealment.

It would be fairly accurate to estimate that about one-half of the whole soil of China is tilled by tenants, and that the other half is owned by retired officials and their families. But there is no class of hereditary nobles in China, nor are titles of nobility associated with territorial

possessions. The land owned by retired officials, a class known as the *literati* and gentry, is usually leased to small farmers, who become tenants from year to year, or at will. It is the custom in some localities to demand from the lessee a certain amount of money on deposit, which is generally about three years' rental, and which is called caution money. This caution money is returned to the lessee when the lease is relinquished, unless it should be applied to the payment of rent due. The amount should by law be set out in the agreement between the lessor and lessee, and if there is a verbal agreement only, there ought to be witnesses as to the amount and the purpose for which it was deposited.

"Leases of land differ greatly in both the mode and the time of paying rent; they differ more as regards the payment of taxes. The amount of rent depends on several circumstances: —

"1. On the amount of caution money paid, — the greater the caution money, the less the rent, since the caution money may be placed at interest.

"2. On the fertility of the soil and the excellence of its position, such as — at no great distance from a stream, so that irrigation and drainage are easy.

"3. On the scarcity of land to be leased, *i.e.* the greater the number of inhabitants, the greater the demand for land to be cultivated, and therefore the greater its value.

"4. On how much is supplied by the lessee, *i.e.* whether or not the lessor supplies to the lessee, dwellings, seed, manure, and the more expensive agricultural implements, such as irrigation-wheels.

"5. On the actual size of the *mow* (one-sixth of an English acre), — for since the measure of surface differs in different localities, a *mow* is larger in one place and smaller in another.

"6. Finally, it not infrequently happens that a space which is estimated to contain within its boundaries, both nominally and judicially, for payment of taxes, a total of, say, ten *mow*, in reality contains eleven *mow*, or only nine. The principal cause of this uncertainty is said to have been the fraud in olden time of the vendors of these lands." (Peter Hoang.)

The diversity of conditions necessarily gives rise to different kinds of lease, and from the same authority as the one quoted above, I select a few of the principal ones: —

1. A lease where the rent is payable in rice only husked but not cleaned; in Soochow and Sung-kiang the average amount per *mow* is nine *tow;* payment is required at the end of the tenth moon, and is often made in money, the rice being converted at its market price.

2. The rent is payable in unhusked rice; the average amount per *mow* is one hundred and eighty *catties* (a *catty* is one and one-third pounds), and is payable in the ninth moon.

3. The rent is payable in money in advance, *i.e.* in each spring before sowing; the average amount per *mow* is about two thousand cash.

4. The rent is payable each year after the autumn harvest; the average amount is a little greater than if paid in advance.

5. A lease by which the lessor and lessee share the crop in kind; if the lessor has received no caution money from the lessee, or if he has supplied seed and manure, the lessor commonly takes six-tenths and the lessee four-tenths; otherwise the shares are equal.

6. A lease by which in each year, while the autumn crops are maturing, the lessor, by a broker, and the lessee, examining first the state of the crop, agree in the proportion to be paid after the harvest to the lessor; for the

most part the lessor takes four-tenths, since generally for this kind of lease the lessor has received a fairly large amount of caution money.

7. A lease in which the lessee for every thousand paces, *i.e.* four *mow*, pays in May one *shih* (about 103.1 litres) of wheat; in August, one *shih* of Indian corn; and in November, one *shih* of beans; this form is frequent in Tsungming.

When the crop of the year is only an average one, it is the custom for the owner of the land to remit a part of the rent in proportion to the crop. The rule of remission is that which governs benevolent institutions that are the owners of land, in remitting to their lessees. There are years when the Emperor remits the imperial tribute, and then the owners should legally yield three-tenths of the remission to the lessees.

I will repeat again, that in China there is a penalty provided for the non-performance of every obligation, whether civil or criminal, and if a lessee does not pay his rent, he is liable to a penalty of eighty blows, and payment is enforced. If the subject of a lease is a house instead of land, the lessor still demands a deposit of caution money in an amount about equal to three months of a year's rent, and the same rule applies, — that the larger the amount of caution money deposited, the less is the amount of the rent. The lessee signs a lease in which are enumerated the number of rooms, all articles belonging to the house, such as windows, doors, and all conditions of the agreement. When the lessee wishes to quit the house, he is required to give the lessor three months' notice of such intention; and should he be ejected, without fault by the lessee, it is customary to give the lessee three months' notice also, and, in addition, for the lessor to remit three months' rent. If the house occupied by the lessee be

destroyed by a fire which originated in it, then the lessor is not required to remit to the lessee any part of the caution money; but if the fire began in a neighbouring house, the lessor shall remit one-third of such money. If the house thus destroyed by fire is rebuilt, and if it is agreed that the lessee may re-lease, there must be a new agreement entered into, and all the conditions settled anew as if there never had been any agreement.

Land formed by alluvial deposits is the subject of a special provision, and such land is divided into two classes: the old land now re-formed, and land independently formed in the middle of a stream. "Re-formed land is that which, once washed away by the force of the waters, has reappeared; land independently formed is an island which has formed in the middle of a stream or in the sea. Re-formed land is legally restored to its former proprietor, whether it is or is not separated from the land of which it once formed part; in the case of land separated from its former hold, washing away from one bank of the stream, and forming on the other, as the land gradually washes away from the one bank, land forming on the other bank may be substituted for it; or when land has washed away from the bank of the stream, and then in the same stream not far from the bank an island is formed, this is recognized as actually the land washed away. In order that the old proprietor may make a legal claim to the re-formed land, he is required to prove that it is in the same place where he already had possession. The proof admitted, besides evident signs, if any exist, is the entry in the public records, in which the proprietor, immediately after the washing away of his land, took care that its situation and limits should be inscribed. Re-formed land which is reclaimed without sufficient proof, and land formed on the bank of a stream where formerly there

existed no land, besides islands independently formed in a stream or the sea, belong to the government, which sells them through the magistrate to those who first offer the value fixed by law proportioned to the quality of the soil. Land situated on the shore of the sea, or a stream, or lake, should be measured each winter, and taxes are remitted for any part of it washed away. New land is measured every five years, and assessed for taxes according to the fertility of each lot; if any land, originally lightly taxed, in course of time becomes richer, a heavier tax is imposed on it. When land is re-formed, its former owners, either because they have migrated far away or because it is difficult to prove their right, commonly put in no claim to it. Hence all formed land deposited on the edge of a neighbouring property is commonly occupied by the neighbouring proprietor, and is sold to him by the government at the time of legal measuring. An island or land independently formed in the sea or in a stream is generally occupied and bought by influential people of the district and settled by colonization." (Peter Hoang.)

In order to remove all doubt with reference to title deeds a certain form was prescribed and issued for the whole Empire in 1783 A.D., and for new land formed by alluvial deposits after that date the proprietor received what is known as a treasurer's certificate or a magistrate's certificate. When these documents are lost, the tax certificates are taken as proofs of ownership. A person in possession of a title deed is presumed to be the proprietor of the land described in it, but the presumption may be rebutted by proof that the possession was illegally acquired. When land is sold, the seller delivers the title deed to the buyer along with the deed of sale which he executes, and notes the fact of delivery at the bottom of the latter. But if only a small portion of the land is sold,

the seller executes a supplementary title deed and notes on the original title deed, in the presence of a witness, what part it is of the land described in the latter, giving the size, with metes and boundaries, the name of the buyer, and any other fact essential to the identification of the part sold, and in especial why the seller retains the original title deeds. But when the greater part of the land is sold, the original title deed is then delivered to the buyer, who executes a supplementary title deed to the seller and notes on the original what part of the land covered by it has been retained, and by whom. When a title deed is once issued, it is never renewed; if lost, the owner of the lost deed should at once petition the proper magistrate, whose duty it is to record the fact in his office archives. If, however, the owner be a man of position, the magistrate will usually issue to him a sealed instrument in which the owner's right is confirmed and which cancels the title deed if it exist. In a case where the title deed has been lost and the owner of the land has contracted to sell it, he executes to the buyer a supplementary title deed and adds at the foot of it a note, showing when and how the loss occurred and when the magistrate was informed of the loss; at the same time the seller delivers to the buyer his tax certificates for the last few years. The buyer also claims all former documents relating to the land, the documents delivered being enumerated at the foot of the new deed; if, however, the old documents have been lost, their loss is then noted and this clause added: If old documents relating to the same land exist, they are null and void. The supplementary deed which replaces the title deed is delivered to the buyer on each change of ownership; if it is lost, a deed supplementary to it is made out.

The Chinese regard the Emperor Kien-lung as their

Justinian. In the eighteenth year of his reign he issued a decree, in which it appears that the words "buy and sell" do not convey an absolute right or title to property as would the equivalent "buy and sell" given in our dictionaries, but merely mean the transfer of an interest liable to redemption. To prevent litigation the decree ordains that in the future, in order to convey land permanently, the words "absolute sale without power of redemption" shall be plainly inserted in the deeds, that all lands conveyed within the thirty years then past not containing this definite expression shall be liable to redemption, while in order to prevent litigation's becoming immortal while man is mortal, it is laid down that all land conveyed more than thirty years prior to the date of the decree shall be held irredeemable.

It has been pointed out in the chapter on Government that each province in China is practically independent, with its own peculiar customs and laws, and so it is with the customs and laws which govern landed property in China. One must study the custom of the province, and even the district in which the particular land is located, if he wishes to inform himself accurately what written instrument comes within the definition of a deed, a mortgage, a lease, a contract, and what is necessary to make each effective.

CHAPTER VI

TAXATION

Of all the functions of the government of China, that exercised in levying and accounting for taxes most clearly illustrates the difference between the theory and the practice of its administration. In theory there is no government that levies taxes with an evener hand than the Chinese, but in practice there is not another where the tax-collector indulges in rapacity and dishonesty to a greater extent. The principles of taxation, approved by the central government, appear just and equitable; but the injustice is in the application by the provincial authorities, and unfortunately, so long as these authorities meet the demands upon their exchequers, there is seldom any very close investigation of the means employed to honour such demands.

There is a section in the Code which provides for impartiality in the levying of taxes and personal services. The principle is that "in all districts, where taxes in money and in kind, and the extraordinary and miscellaneous personal services to be required from the people, are estimated and apportioned, due regard shall be had in each case to the extent of the family in point of numbers and to its ability to contribute, according to which the members thereof shall be rated in the superior, middle, or inferior class of inhabitants.

"If the poorer inhabitants are compelled to perform the services from which those who are rich are excused, or

any other such unjust partiality is discoverable in the conduct of the officers of the government, it shall be lawful for the injured poor to appear and complain thereof to the tribunal of the immediate superiors of such officers, whence they may repeat the appeal to the several superior tribunals in succession. The officer and his official agents who shall be convicted of any such breach of this law, shall, each of them, be punished with one hundred blows, and the unjust or partial arrangement shall be annulled. The officers of any tribunal where such an appeal shall have been refused a hearing shall be punished with eighty blows, as the law against bribery to commit an unlawful act may warrant or require."

Twenty centuries ago the government of China announced that such principles as are set forth in the above quotation should govern in the matter of taxation, and there has since been no change in the equity of those principles. Through all changes in other respects the government has shown the desire to remain steadfast in justice to all its subjects in the apportionment of taxes.

While she announces her purpose to cause the pecuniary burdens of government to bear evenly on all the subjects, China also requires of the subject the utmost good faith in registering in the "public books" the land he may own which is liable to taxation. "Whoever fraudulently evades the payment of the land tax, by suppressing or omitting the register of his land in the public books, shall be punishable in proportion to the amount of the chargeable land omitted." (Code.) And "if the land is entered in the register, but falsely represented, as, — unproductive when productive, lightly chargeable when heavily chargeable, or if the land is nominally made over in trust to another, in order to exempt the real proprietor from nominal service," the guilty party shall be severely punished, "but

instead of a forfeiture of the lands, the register of them shall be simply corrected, and the assessment and personal service of the real proprietor be established agreeably thereto." (Code.)

The government is not unmindful that the ability of the subject to pay may be impaired from excessive rain, the overflowing of waters, excessive drought, unseasonable frosts, flights of locusts, and the like; and when such is the case, it is provided that the customary assessments shall be proportionally reduced, or remitted altogether.

When the taxpayer sustains damage from any of the causes mentioned, or from other causes beyond his control, his representation in connection therewith to the magistrate of his district shall receive the prompt and careful attention of that official. And as if to remove from officers and clerks officiating in any of the departments of the government the motive to enrich themselves by means of their official positions, "no such officers shall, during the exercise of their authority therein, purchase, or hold by purchase, any lands or tenements within the limits of such jurisdiction." (Code.)

In connection not only with the subject of taxation, but with other subjects about which the central government undertakes to legislate, in theory perfect fairness would seem to govern. If only the fundamental provisions of the law be studied, nothing more would apparently be desirable to make China a perfectly governed empire, but most of this beauty and harmony of organic structure is marred when put into practice. The Board of Revenue at Peking is charged with the duty of arranging and supervising financial matters pertaining to the interest of the Empire. Before the end of each year the board makes up an estimate, which, when approved by the Emperor, is sent to the viceroys and governors of the provinces in the form

of an imperial edict. It is the intention of the board to apportion the taxes among the various treasuries and collectorates of the provinces as equitably as possible, and there are one or more in each province in which should be deposited the taxes as soon as collected.

The taxes on land and grain are estimated on the principle that seven *mow* of land, or an acre and one-sixth, will support a man and his family; but of course not every Chinese has as much land, and some have none at all.

China, like other Oriental countries, relies upon the land tax as the principal source of revenue; but it is strange that in a country so large in area as China, the revenue derived from the tax on land is not so large in amount as it was at the close of the eighteenth century, and exceeds but by a fraction the revenue derived from the foreign customs collectorate. If an average be made for the three years 1892–1894, China receives from the land tax about taels 25,000,000 annually, but it must not be concluded that this sum represents all that is collected. It may be that it does not represent half, for if the provincial treasuries are prompt in honouring the drafts of the central government, the actual sum collected is not too closely inquired about. And it is doubtful if there is a province in China that could make up a balance sheet fairly showing the receipts and disbursements for any single year of its history.

The principle upon which taxes have been levied has not always been the same. China has been ruled by several dynastic houses, and under each there have been changes made, but the present dynasty has been able to avoid in part some of the heavy taxation imposed by that of the Ming.

During the feudal period the principle was adopted of dividing a square piece of land into nine equal parts, each

containing one hundred *mow*. The central square of one hundred *mow* belonged to the government, and eight families cultivated each their own square, while the square owned by the government was cultivated by all.

When the land was hilly, not irrigated, or marshy, the amount of taxes to be paid on such was regulated according to its nature and the productive capacity of the soil. Dr. J. Edkins states that when the Manchus conquered China there were 15,888,333 acres of land on the land tax record, but that the conquerors only levied taxes on land already cultivated. In 1810 there were 17,913,432 acres. According to the same authority there is less land now under grain cultivation than in the Ming dynasty in the sixteenth century, but this is probably due to the fact that in China there is at present a larger acreage devoted to the cultivation of cotton, and perhaps of other crops.

Although the Manchu dynasty governs China by the right of conquest, slight taxation has been one of the characteristics of its legislation; but the merit claimed in that regard is more than offset by the negligence of the dynasty in not having the highways of the Empire kept in a state of proper repair. The splendid canals and roads and bridges which, under other dynasties, were the perfection of engineering skill, are now in decay and ruin. The Grand Canal, which at one time connected the capital with the southern section of the Empire, is in many places so out of repair as to be almost practically useless, and this is a great inconvenience to internal trade. It may be stated that there are no roads in China such as would be recognized as roads in western countries. There are a few beaten tracks over which merchandise has been carried for centuries, but apparently the aim of the Manchu is to make all he can out of China and to do as little as he can for her advancement.

As the rice crop is the basis of taxation, the subject can be made intelligible by selecting one or two districts and showing the quantity of rice levied. In the Wu district the quantity levied is 149–155 piculs. If the public accounts are examined, it appears that whatever other crops are produced in that district, are classed as so much rice *ad valorem*, and the whole is labelled taxes on land. Edkins states the taxes at Shanghai to be .29½ of a picul on each *mow* of good land, and since a picul of rice is worth about five Mexican dollars, and the harvest may be two piculs, the tax on one *mow* would be about $1.50. On inferior land, and land outside of the marshes, of course the tax would not be so much.

A tax levied on cultivated fields is called *liang*. The personal service or capitation tax is called *ting*. Thus when the Code provides for impartiality in levying the land tax and for personal services, the latter is the same as the capitation tax in English law. When the land tax and the personal service tax are intended to be included together, the tax is then called *ti-ting*.

This is the way extortion is sometimes practised on the taxpayers by the under officials. Messengers are sent by a magistrate to the farmers in the district to notify them that their taxes are due and to hasten payment. On arriving at a farmer's house a messenger expects a good meal, and it is to the interest of the farmer to give him a solid meal with as much wine as he can drink. But when the farmer presents himself with the note of assessment of the taxes due, a sum in excess is invariably demanded. Although the farmer knows this demand to be unjust, he usually finds that to pay it is to his interest, or some charge may be brought against him, such as obstructing the collecting of legal taxes, which in all probability would cost him more than the sum demanded. To correct the abuse

the present Dowager Empress once ordered that the viceroys and governors should direct the subprefects and city magistrates to send a grain tax form with the amount due filled in. This was meant to reach the farmer beforehand, and he was to bring it with him on going to the city to pay, and exchange it for the tax receipt. No additional sum was to be charged as a messenger tax, and if the subprefects or magistrates should give unfair advantages to certain persons, they could be accused before the governor-general. A way, however, was found to avoid this edict of the Empress, for instead of writing the amount of the tax distinctly in the blank form it was filled in with large grass characters. The consequence was that overpayments were still made in the provinces by the helpless farmers, whose experience taught them that it was advisable to submit to the extortion rather than appeal to the law to vindicate their rights.

In a revenue memorandum the inspector-general of the Chinese Imperial Maritime Customs, Sir Robert Hart, has recently submitted to the central government a statement indicating what the land tax of China might yield and how it might be collected. I have seen no statement clearer than this, nor has the government been more directly informed of its inefficiency in providing the ways and means for necessary expenses as well as for the defence of the Empire.

The inspector-general informed China that her weakness was the real origin of the war now waged between Japan and Russia. In proof of his opinion he reminds her that the entire revenue, comprising customs duties, salt gabelle, land tax, etc., amounts to only about taels 80,000,000 annually, and that more than half of this is mortgaged for the payment of foreign loans, indemnities, etc., and adds that some change in the method of raising

revenue is absolutely necessary. He refers to the suggestions made by various advisers, but concludes that the one which gives real promise of supplying the want is that which recommends rearrangement of the land tax, and proceeds to advise how this might be done.

The estimate is that China proper will measure in length 4000 *li* (three *li* are equal to an English mile) and in breadth about the same. This estimate shows that the eighteen provinces contain 16,000,000 square *li*, and in each square *li* there are about 540 Chinese *mow* (six *mow* are about equal to one English acre). But if the estimate be made that 500 *mow* is the equivalent of a square *li*, China would then contain 8,000,000,000 *mow*. The inspector-general concludes that if each *mow* were to pay as land tax 200 copper cash, and if 2000 be taken as representing 1 silver tael, every 10 *mow* would pay 1 tael, and the whole superficies ought accordingly to yield taels 800,000,000. If deductions be made for mountains, lakes, and rivers, and allowances be also made for bad harvests and unproductive soil, there would still be, at a reasonable average, at least half of the whole of China capable of paying land tax, which would in this case amount to taels 400,000,000. As no revenue could be more surely relied on than the land tax, and none would prove as undiminishing in amount and as uninterrupted in continuity, not only would there be enough to provide for every national requirement, and leave a surplus, but it might be collected with nothing like the annoyance and inconvenience and actual damage now suffered by the people. Certainly when the entire revenue of the Empire amounts to about taels 80,000,000 only, the advice of the inspector-general, and the reason he gives for it, merit the most careful consideration of the central government, for in India, where the conditions in regard to population and comparative wealth

are similar to those of China, the land tax amounts to taels 100,000,000.

What I wish to present in this chapter is a consideration of some of the main principles which underlie Chinese taxation. I do not intend to make them confusing by an array of details, but probably these principles can be made clearer by naming a few more of the sources of revenue and by showing how taxes are derived from such sources. The land and grain taxes have been referred to, and the other main sources may be named as follows: taxes on salt, direct or indirect, *likin* tax, foreign customs, subsidies from other provinces, taxes on native opium and opium licenses, native customs, and rents on special tenures. There are several miscellaneous sources, but those named above are the principal ones. The amount of taxes derived from all sources approximates the sum of taels 115,000,000, but it has been seen that Sir Robert Hart does not rely upon more than taels 80,000,000 as certain.

The tax which the foreign merchant has heard and read most about is known as the *likin* tax; and a statement how this tax is levied and collected will at least illustrate one principle. The tax is new in comparison with the land and salt taxes. It first came into force in 1853, but then it appears to have been somewhat local, though in 1861 the Taiping rebellion had so exhausted the treasury of China that it was made general throughout the Empire and collected wherever the authority of the central government extended. It is as legal as any other form of taxation, and is so recognized in the new treaties into which China has entered with western nations. If I remember correctly, there is a provision in most, if not in all, of the new treaties providing for the abolition or modification of the *likin* tax. Surely there is no form of taxation in China more embarrassing to internal trade or more ob-

structive to the sending of foreign importations to the interior markets, and the reason for this is evident when it is borne in mind how the *likin* tax is collected.

As soon as the imperial decree is issued authorizing the levy of *likin*, the provincial authorities at once organize a bureau presided over by one or more officers of high rank, whose first duty is to map out all the places where it would be profitable to locate a *likin* station. When a station is established, a small official is put in charge who is responsible to the head office. In all the large towns and along the main land and water routes one will find a *likin* station. The number and frequency depend on how much trade there is, and how much *likin* tax it will stand without being strangled. At some places, as along the lower part of the Grand Canal, the *likin* stations will be found to follow one another at intervals of twenty miles or so. In other places, where trade is scanty and the stations can be turned by detours, they are not so frequent. To give to this system of taxation the appearance of unity, in theory at least, a tariff is arranged and supposed to be published for general information, but in practice very little attention is given to the so-called authorized tariff. The custom is for the merchants and officials to enter into a bargain as to the sum to be paid in full for the cargo, or for the merchant, if he is a regular customer, to pay a lump sum for a particular voyage or a particular trade.

In the chapter on Guilds the influence of those organizations will be shown to enter largely into the internal trade of China, and in this connection another example will be pertinent. There is usually a very friendly feeling between the members of a guild and the *likin* officials. It is because such an understanding is to their mutual interest. This may be exemplified as follows : the city of Soochow is about seventy miles inland from the open port

of Shanghai; there are several *likin* stations on the important trade route between these two cities, and the piece-goods guild at Shanghai has commuted all *likin* charges on piece-goods to Soochow for a number of years. This fact is mentioned to indicate the irregularity in collecting taxes and the latitude given to the discretion of provincial officials. The central government and not the provincial official suffers for such bargains.

As a rule a *likin* regulation provides for two stations, one the departure, and the other the inspection station. The duties are arranged on the basis of a three per cent levy at each station of the first class, and of a one and a half per cent levy at each of the second class. That is about the average duty. The stations are so arranged that goods, passing along any of the recognized lines of tariff, come alternately to stations of each kind, beginning with the departure station. On the majority of routes there are four stations, two of each kind, but on some of the routes the last inspection station is omitted. When there are more than four stations on a route along which goods pass in any province, the *likin* charges within that province do not exceed ten per cent on the assessed value. All local industries are subject to the *likin* tax.

The revenue derived from the *likin* tax is about taels 12,000,000. This is the sum which is accounted for by those interested in its collection, but the best authorities on the subject estimate that as much more finds its way into official pockets. Comment is unnecessary to show what an embarrassment and hindrance such a system of taxation must be to trade in general.

Imagine custom-house officials on the border lines of all the states of the American Union, as well as on the land and water routes of trade, and the merchant's goods stopped and appraised for duty at every one of them: no

argument is necessary to demonstrate how easily and how quickly the external and internal trade of the United States would be strangled to death. Among the late treaties between China and the western nations, the one negotiated with the United States of America directly provides for the abolition of the *likin* tax, and in that regard is the best and most definite on the vexatious subject.

Another large item of revenue is the salt tax, and, as a further illustration of the principle of Chinese taxation, an example of how this tax is collected will be of interest.

The salt industry is a government monopoly which is protected by treaty against the importation of any salt from a foreign country.

The government confines its sale to certain circuits, and these, for administrative purposes, number seven. The boundary of a circuit is carefully defined, and to carry salt from one circuit to another is expressly prohibited. To be guilty of violating the prohibition would subject the offender to punishment and the salt to confiscation.

The general system of production and cost is explained by George Jamieson thus: "The salt is produced in certain specific districts along the coast by evaporation or boiling from sea-water, or it is obtained from brine found in wells and marshes in Szechuan and Shansi. There is no restriction in the quantity or mode of production, but all the salt produced must be sold either to government officials, who establish depots for its storage, or else to licensed salt merchants who have obtained by purchase the right to acquire certain areas of consumption. The cost of production varies greatly. At some places, especially around the coast, where a supply is readily obtained by evaporation, the cost is very small. In the province of Fukien, for instance, at Changchow and Changtzin, which are large centres of production, the

cost is said to be 1½ to 2 cash a catty (say 4*d.* per hundredweight). In Chinkiang it costs 3 to 4 cash a catty, and at Taku, in the province of Chili, it costs from 1 to 2 cash. In the Huai district the cost appears to be considerably more, especially that portion produced by boiling water, which is of better quality. Here it is said to cost from 8 to 10 cash (1*s.* 7*d.* per hundredweight)."

There is an estimate made by the government of the quantity of salt that will probably be annually consumed in each circuit, and warrants are then issued to cover the whole quantity. These warrants may be used from year to year, and may then be handed down from father to son, or they may be transferred for value. A warrant has sold for as much as taels 12,000.

A warrant entitles the holder to buy at the government stores a specific quantity of salt. The quantity is not reckoned by the picul, but by a measure called the *yin*, which varies a good deal in the various circuits. In Huainan the *yin* represents 8 packages of 86 catties each, with a certain allowance for waste which actually makes them weigh 94 catties. Each warrant entitles the holder to buy 500 *yin*. A warrant therefore covers $94 \times 8 \times 500$ catties (3.776 piculs).

There is no source of revenue so closely supervised as the salt tax. It is the purpose of the government to confine the selling of this product to government officials exclusively, and it is intended that not a pound shall be sold unless the purchase money passes the palm of some government official. But this is not always the case. The salt smugglers of China are many and keen, and a bribe prudently placed may often close an official eye.

In Chekiang, on the sea-coast, taxes are sometimes paid in salt wedges, which vary in size and are weighed by the tax collector.

The revenue derived from the salt tax amounts in round numbers to taels 13,000,000, which in India is taels 33,000,000; but this sum would no doubt be much larger if in practice the government monopoly were so enforced as to accord with the theory upon which the administration is supposed to be based.

It is from the sources indicated, including among these native customs, that China derives her principal revenue; and the system of collecting and accounting for it has very justly excited the indignation of the inspector-general. This is not surprising when the foreign customs collectorate, over which Sir Robert Hart presides, collects and pays into the treasury of China a larger amount of revenue than is paid in from any other source. The theory on which is based the internal taxation of China, and the number of subjects taxed by the government, in conjunction with the smallness of the income of the Empire, would prove a good deal of leakage somewhere.

China is at this writing embarrassed by the want of a sufficient revenue to meet domestic and foreign obligations. Her officers are poorly paid, and thus tempted to rob their own government. The selling of official places at the capital and in the provinces has long been a custom. At the port of Shanghai the salary of a *taotai* does not exceed taels 3000; and yet it is reported that an incumbent has paid for the office more than taels 100,000, when the term of it is three years only

The central government, although it may levy taxes with an even hand, cannot adopt a surer policy to remove the dishonesty in the collection of these taxes than to follow the advice of men like Sir Robert Hart, who has given a lifetime of loyalty to the real interest of China.

I have consulted the highest authorities on China and her affairs, and not one undertakes to give accurate infor-

mation as to the amount of the taxes actually collected from the people. The same uncertainty exists with regard to the actual expenses of the Chinese government. No one seems to know what should be accounted for and how much should be expended. There appears nothing certain and prompt in connection with taxation in China, except the date for the taxpayer to pay and the presence of the tax collector to receive payment.

The enigma grows when one undertakes to explain how a government like that of China, embracing such an immense area of territory and so large a population, has survived domestic dissensions and foreign wars, and is to-day substantially intact against the searching and potent influences of western civilization.

The Empire is moving along in the same paths of polity as when it began its journey more than four thousand years ago. Its gates have been battered down, but the conqueror has entered only to be absorbed by the conquered. China has witnessed the birth, the greatness, and the downfall of the most powerful republics and empires that have existed in the past. She furnished silk for the daughters of Roman senators, but Rome has long since passed into history, while an edict of the Dowager Empress is to-day obeyed by four hundred millions of subjects. The life of China is the longest among empires, and at the beginning of the present century she commands more the attention of the world than she did at any other period of her history, a fact which cannot be solely due to her colossal physical proportions. There must be something in her organic structure which has enabled her to stand firm amidst the crash of surrounding empires. True, she has no religion in a western sense, but she has a code of ethics which is the creed of her people, the basis of her laws, and the shrine before which

the largest number kneel. The government is both despotic and democratic. The Emperor does as he pleases, and his subjects do about as they please. Both are perfectly satisfied and wish to be let alone, and are willing to let all others alone. There is but one China.

The foregoing may be supplemented by a quotation from E. H. Parker's "China": —

"Things would not be so very bad, in spite of parlous times, if all the receipts were paid, in one currency, into one central chest or account (as the foreign customs receipts are), and if all payments were drawn in one currency from this one chest and remitted in one way. But, in the first place, all provinces have two main currencies of pure silver (several 'touches') and copper cash (several qualities), the relation between which two differs in each town every day. Besides this, each province has its own 'touch' and 'weight' of a silver ounce; and some provinces use dollars, chopped and unchopped, by weight or by piece, as well as pure silver; and the dollar exchange varies daily locally and centrally in regard to both copper cash and silver. Even this difficulty, which involves an enormous waste of time and energy, and opens the door to innumerable and inscrutable 'squeezes,' might be philosophically ignored if receipts and disbursements were lumped in one account, — if the venous blood were allowed a free course to the heart, and the arterial blood a clean run back to the extremities. But the Board of Revenue, which is as corrupt and conservative as the provinces, goes about its business in a very hand-to-mouth, rough-and-tumble sort of way. . . . Then each viceroy or governor disputes every new demand, and it is quite understood that some appropriations are intended to be more serious than others. Some simpleton of an honest man from time to time throws everything out of gear by allowing a truth to escape: the

board never lets a 'flat' of this sort score in fact, even though he appear to do so in principle. A governor cannot be expected to show zeal for Yunnan copper when he knows that the high officer in special charge is making a fortune out of it. . . . There are many other absurd results of this rule-of-thumb system. Province A receives subsidies from province B, but, itself owing others to province C, pays B on behalf of C. Thus there are two freights to pay, and two losses on exchange. Sometimes A may be directed even to pay a subsidy to a province B, which already pays one to province A. Funds which might easily be sent by draft are usually despatched in hollowed-out logs of wood, with a guard of soldiers as escort, accompanied by carts, fighting 'bullies,' and a commissioned officer. Even when sent by draft, there is a charge of two or three per cent for remitting, and a commissioned officer is sent to carry the draft. . . . It is pathetic to read the account of hundreds of coolies trotting all the way to Shanghai from Shansi with heavy logs of wood containing silver wherewith to repay the interest on European loans. The extraordinary care and punctuality exacted in matters of form, duty, or national honour are only equalled by the shameless peculation and callous waste of time and money which prevail in personal matters connected with the performance of the same public duty. Officers of high rank, who are known to make 30,000 or 40,000 taels a year out of their posts, gravely work out their balances to the thousand-millionth part of an ounce, forgetting that (even if the clerk's salary were only sixpence a day) the time occupied in counting and subtracting each line of figures would cover, ten thousand times over, the clerk's salary rate per minute. In a word, the whole Chinese financial system is rotten to the core, childish and incompetent, and should be swept away root and branch.

Until there is a fixed currency, a European accountancy in all departments, and a system of definite sufficient salaries, all reform is hopeless to look for."

It has been seen that the system of taxation which China now enforces is about the same which has been in force during centuries of the Empire's life, and that she still refuses to change it. Japan at one time received a new and better civilization from China than that which existed in the Island Empire; but Japan has responded to the duties and responsibilities of the age by throwing off the influence of China and utilizing such western manners and customs as suit her condition; and no nation has ever shown the discriminating tact and judgment of the Japanese in adopting what was most needed to elevate and strengthen.

In early times the system of taxation adopted in Japan was similar to the system still adhered to by China; but the latter Empire will not, like the former, recognize that national existence demands a change. As a matter of historical interest and as an indication of the power of the Japanese long ago to bear fiscal burdens, I offer the following from Captain F. Brinkley's history of Japan and China, a recent book in which the author shows a strong and clear grasp of his subjects and presents them in the most pleasing style: "The system of taxation adopted in Japan in early times and the changes it underwent from age to age are interesting, not merely from a historical point of view, but also and chiefly as furnishing an index of the people's capacity to bear fiscal burdens. It is a somewhat obscure subject, though not so difficult to understand as the confusing attempts hitherto made to elucidate it would imply.

"Land measure seems to have been based at the outset on a very practical consideration. The area required to grow sufficient rice for an adult male's daily consumption

— in other words, a man's ration — was taken as the unit. A square whose side measured two paces, or six feet, being considered the area adequate for that purpose, received the name of *ho*, afterward changed to *tsubo*. This unit of superficial measure remains unchanged until the present day. There being three hundred and sixty days in the year according to the old calendar — twelve months of thirty days each — a space measuring three hundred and sixty *tsubo*, and producing a year's rations, naturally suggested itself as another fundamental area, the term *tan* being applied to it. For the rest, the decimal system was adopted: one-tenth of a *tan* being called *se*, and ten *tan* a *cho*.

"Thus far as to superficial measurement. The next question is the grain grown on a given area. The basis in this case was the quantity of rice (on the stalk) that could be grasped in one hand. This was called *nigiri*. Three handfuls made a bundle (*ha*), twelve bundles a sheaf (*soku*), and fifty sheaves were regarded as the produce of the *tan*. In the earliest references to taxation the 'sheaf' is invariably mentioned. The unit of capacity was a wooden box (called *masu*), capable of holding exactly one-tenth of the grain obtained from a sheaf, that is to say, the hulled grain. Naturally a more definite system ultimately replaced these empirical methods. At the close of the sixteenth century, under the administration of the Taiko, the measure of capacity was exactly fixed, and its volume was called *to*, ten *to* (*i.e.* a sheaf of grain) being called a *koku* (3.13 bushels), while one-tenth of a *to* received the name of *sho*, and one-tenth of a *sho* that of *go*. There were wooden measures having the capacity of a *sho* and a *go* as well as that of a *to*.

"The oldest historical record of land taxation shows that the tax levied on each *tan* of land, in the seventh century,

was a sheaf and a half of hulled rice; and since the average produce of the *tan* was twenty-five sheaves, this represented only six per cent of the yield. Thenceforth the tendency was steadily in the direction of increase. In the middle of the ninth century land was divided into four grades for fiscal purposes: the levy on the first grade being five sheaves per *tan* (hulled grain must always be understood); that on the second, four sheaves; that on the third, three sheaves; and that on the fourth, one and a half sheaves. This was called a tax of one-fifth, or twenty per cent, the produce of the best land being then estimated at twenty-five sheaves. In fact, the tax was nearly three and a half times greater in the reign of the Emperor Saga (810–823) than it had been in that of the Emperor Kotoku (645–654). In the twelfth century the tax had become twenty-five per cent, and there was a further levy of ten per cent of the remaining grain, one-third of this extra impost being destined for the support of the governors in the provinces. Hence, at that time, the total grain tax on the land was thirty-two and a half per cent of the gross produce, — the central government taking thirty per cent, and the local government two and a half per cent.

"It is not to be inferred that grain crops alone were taxed, other produce escaping. In addition to the levy of grain, people had to pay *chobutsu* (prepared articles), as silk fabrics, pongee, and cotton cloth. These were assessed at the rate of one piece of silk fabric, three pieces of pongee, and four pieces of cotton per *cho* of land (the piece in every case being ten feet long and two and a half feet wide). Each of these imposts represented a monetary value of from thirty to forty *momme*. There was also a house tax (*kobetsu*), which took the form of a twelve-foot piece of cotton cloth per house, or six pieces of ten feet per *cho* of land, and, finally, the farmer had to pay 'sub-

ordinate produce' (*fuku-sanbutsu*) to the value of thirty *momme* per *cho*. All these imposts 'of prepared articles' aggregated about one hundred and eighty *momme*, or three *ryo* per *cho*; and since the price of hulled rice was two and a half *koku* per *ryo*, and the grain tax was six and a half *koku* per *cho*, it would seem that the total imposts levied on each *cho* of land were fourteen *koku*. The average produce of rice per *cho* was reckoned in those days at twenty *koku*, and thus it appears that seventy per cent of the produce was taken by the tax collector. The people were further required to provide weapons of war, and had to perform forced labour. The saying current in that era — from the close of the tenth century to the middle of the twelfth — was that the government took seven-tenths of the produce of the land and left to the people only three-tenths.

"It has to be remembered in this context that, in addition to the taxes enumerated above, every male between the ages of twenty-one and sixty-six was liable for thirty days' forced labour annually, and every minor for fifteen days', which *corvée* could be commuted by paying three pieces of cotton cloth, equivalent in value to about a *koku* of rice."

From what has been written in this chapter the conclusion is quite clear that there is in China a wide difference between the theory and the practice of taxation. In theory the government is influenced by the principles of equity, but in practice those principles are set at defiance by the provincial officials. Such a system has prevailed for centuries, and will continue to prevail until the present generation of Chinese passes away. There may be hope in the younger generation, and especially in the young men now being educated abroad or in the schools conducted in China under foreign supervision. In Japan the spirit of the age does not appear to confine itself to any

particular class of the population, but rather to permeate all classes; and it is due to this fact that Japan has deservedly won for herself a place in the international council of nations. The dense conservatism of the rulers of China invited foreign aggression, and there will be no new life for the Empire until it is thrown off.

There must be a reformation of the financial system of China, and such reformation is as much needed at Peking as it is in the provinces. The central government must have the laws executed as well in practice as in spirit and meaning. It is no excuse to say that the laws are good when the answer can be returned that they are corruptly executed.

CHAPTER VII

COURTS

WHEN the courts of western nations began to base their judgments on cases recorded, the law which they administered became written law. It was written case law, and differed only from code law because it was written in a different style.

In China the law makes it a penal offence for a magistrate or a judge to disregard recorded cases. It is the duty of such officers to examine carefully the cases that have been previously decided, and to render judgment accordingly in the cases under their investigation.

If there be no recorded cases or statutes applicable, then those which approach most nearly to the cases under investigation shall guide in determining the judgment to be rendered.

In the judiciary of no country does the judgment of a competent court, rendered after due consideration of all the facts and circumstances, establish a precedent of greater binding force in determining the investigation of subsequent cases than in the judiciary of China.

What has once been regularly done is the tyrant with absolute power to command what shall thereafter be done. China needs a few original jurists like Mansfield or Marshall, to mark out new ways; but in the present state of Chinese society such pioneers would very probably get their heads cut off.

Another principle of Chinese jurisprudence is that no person may take the law into his own hands. This principle, however, does not deny the right of self-defence, but the circumstances under which the right may be exercised must make plain its necessity.

To prevent commission of a crime, Chinese law provides a broader remedy even than English law. Usually in English law, on suspicion that a person is about to commit an offence, an affidavit setting forth the facts is made before a competent judicial officer, whereupon a warrant is issued for his arrest. After being arraigned, if the suspicions are proved, the accused may be required to enter into a bond for his good behaviour. There is named in the bond a penal sum in money, and the bond should be signed by the suspected person and sureties satisfactory to the court. But in China, whenever a magistrate may think it desirable, he can require suspicious characters to give security in the form of a bond, though no penal sum in money is named in it. After the bond with sureties is given, the magistrate has the further power to compel the family and relatives and neighbours of the person suspected to become responsible; and it is the duty of these, if there be occasion, to deliver their principal to the court, or else they become accessories to the offence committed and may be punished as accessories. If there should be no bond, the same duty to give information, under a like penalty, attaches to the relatives, the family, the neighbours, and the head-man of the village or town. Here, again, appears the doctrine of mutual responsibility which spreads through every branch of the jurisprudence of China.

There is a regular gradation of courts in China, and a suitor may begin in the lowest and proceed to the highest. There is the district, the department, the circuit, and the

province. In each of these territorial divisions of the administrative system there is a court whose jurisdiction and powers are defined. From the supreme provincial court a case may proceed to the judiciary board at Peking for revision, and thence to the Emperor.

If a subject or soldier of the Empire has a complaint to make, or information to lay, he must make it before the lowest tribunal of justice within the district to which he belongs, from which the cognizance of the subject may be transferred to the superior tribunals in regular gradation. If, instead of addressing himself to the proper magistrate within his district, the complaint or information is addressed to a superior tribunal, the punishment is fifty blows, even though the complaint should be just and the information correct. But if the inferior tribunal refuses to receive the complaint or information, it is then lawful to appeal to a superior tribunal.

And "in general, every magistrate and tribunal shall, conformably to the extent of their powers and jurisdiction, not only receive and undertake to investigate, but also bring to a final issue and adjudication each of the several criminal causes and questions on official business that lawfully come before them; and whenever they, on the contrary, depute or instruct other magistrates to continue any such investigations in their place or stead, the magistrates and members of tribunals so offending shall be liable to punishment." (Code.) To prefer an anonymous complaint, one which does not contain the genuine name and address of the complainant, renders the offender liable to punishment by strangulation, and the punishment may be inflicted whether the allegations in the complaint are true or false.

When the complaint has been addressed to the proper judicial officer, and the court is sitting to hear it, there

are three considerations which first present themselves. The first is, What are the facts? To ascertain the facts is necessary in order to determine the nature of the offence or fix the character of the action. Then the court will inquire into all the circumstances, and these, in connection with the facts, will guide to any recorded case or statute applicable, and will serve to bring the case before the court under a former decision or a provision of a statute. After the facts and circumstances have been accurately ascertained, the court further considers the relative position of the parties to the suit. This last consideration is necessary in order that a suitable sentence may be imposed or a proper judgment rendered.

It is not to be supposed that the proceedings of a Chinese court are behind closed doors. Any one who feels so inclined is, it appears, fully privileged to attend. The trial and the punishment are as open as in any country in the world, and it could not probably be otherwise without danger of a revolution. Nor has a Chinese judicial officer the right to give undue latitude to examinations before him. The accused can demand that the questions propounded to the witnesses shall be strictly confined to the subject of the complaint or information against him, and any inquiry into matters irrelevant thereto renders the presiding officer liable to punishment. But a case is not decided by the weight of evidence. It is closely scrutinized, and the judge decides according to his conviction. Statements are not simply accepted, although direct. The surrounding circumstances must be clear as well.

Torture is provided for in the Code, and may be employed against accused persons and witnesses when they prove unduly obstinate. But the employment of torture in any way by an underling is severely punished. The

tribunal that orders the application must be regular in its constitution, and the accused or witnesses should be properly before it. Those who have attained their seventieth year, and those who have not exceeded their fifteenth year, are exempt from being "put to the question." There is also an exception in favour of those who belong to the eight privileged classes.

According to the Code, a prisoner is given the opportunity to plead after trial and conviction. The proceeding is, that the prisoner and his family and nearest relations are brought into court and informed of the offence whereof he stands convicted, and of the sentence to be pronounced upon him in consequence. If they acknowledge its justice, or protest against its injustice, the acknowledgment or protest is written down. In every case of a protest it shall be made the ground of another and more particular investigation by the court, and the refusal to receive the protest and to investigate the case anew subjects the delinquent officer to punishment.

It has been stated that cases under investigation must be determined according to existing laws; but it is impracticable to provide for every possible contingency, and when there are no laws or statutes precisely applicable, the case may then be determined by an accurate comparison with others which are already provided for and which approach most nearly to that under investigation. But a sentence which has been passed in accordance with laws which approach most nearly, but do not exactly fit, shall be laid before a superior judicial officer for approval, and so on to the Emperor for final decision. Any erroneous judgment which may be pronounced, in consequence of adopting a more summary mode of proceeding in cases of a doubtful nature, shall be punished as a wilful deviation from justice.

If a law is to become fundamental, it usually takes effect and is in full force from the day on which it is published; and every transaction shall be adjudged according to the most recent law, although the transaction should have occurred previous to the promulgation of that law. An occasional statute, however, which is a modification of the law, does not operate in cases which were antecedent to its enactment. If any period of days or years is assigned for the commencement of the operation of a statute, the period shall be strictly observed, except when the statute provides for the mitigation of ordinary punishments, and then it shall be construed to be immediately in force. There is no excuse for the wrongful application of a law. All officers and others in the employ of the government are enjoined to make themselves perfect in the knowledge of the laws, so as to be able to explain their meaning and intent, and to superintend and insure their execution. And fraudulently to pervert or misconstrue, or presumptuously change, abrogate, or confound the law upon any case so as to produce disturbance or insurrection in the country, renders the offender liable to punishment by being beheaded.

As above indicated, a sentence must be in accordance with the latest law applicable and shall be pronounced in open court, and the privilege of appeal shall not be denied. The sentence must be correctly recorded in regular order. It shall also be executed within the prescribed time and in accordance with its character or nature.

During the time a prisoner is confined the Code provides that he "shall not suffer unusual hardships, but that his necessary wants shall be looked after. When ill, he shall be provided with suitable medicine and such physical relief as his condition requires."

The above provision of the Code would seem to rob

prison life in China of much of its reputed hardship; but in practice there is no dungeon darker or more loathsome than a Chinese, neither is there one whose door opens more readily when the inmate or his friends have money.

It is recorded in the Wu Tai history, 927 A.D., that Si-tung petitioned to the Emperor, in behalf of prisoners who were in confinement, that he would order a judge to be sent to inquire into the cause of such confinement by carefully examining the charges and evidence against them in order that justice might be done. The Emperor issued an edict according to the prayer of the petitioner. In principle this edict would seem to have been intended to answer the ends of a *habeas corpus* under English law, with this difference, that under the edict the judge goes to the prisoner and investigates the cause of his detention, while under English law the prisoner sues out a writ of *habeas corpus* and is brought before the judge, who decides upon the evidence adduced whether or not he should be released. The above edict was called to my attention by Dr. J. Edkins, whose writings on China have long since established his reputation as a thorough scholar and a reliable authority.

The right of petition is guaranteed to every subject of China. The Code is explicit that when a subject desires to petition to the Emperor he shall have the privilege, and for an official of the Empire to attempt to deny or prevent it is a penal offence severely punishable.

The judiciary board at Peking is not a perfunctory tribunal. Its duties are most important, and when performed as the spirit of the law intends that they should be, a feeling of security and confidence goes out from the capital to the provinces. The definite duties and wide powers of this board stand immediately interposed between the high provincial officials and the Emperor. The exer-

cise by a governor or viceroy of the judicial functions is reviewed by the board, and is reported upon to the Emperor as approved or disapproved, as the board may think proper.

"Whenever the tribunals of justice in the provinces or in the capital have occasion to take cognizance of a case of false judgment, an accurate and faithful report of the circumstances thereof, and of the extent of the injustice alleged, shall be laid before the Emperor." (Code.)

The following is an extract from a collection of Chinese law reports dealing with the trial, revisal of proceedings, and final sentence upon a case of a master charged with the murder of his servant.

The case, according to the statement of the sub-viceroy of Kiangsi, was as follows: —

"Lieu-hoey-kuey hired the services of Pan-kiun-ting, a slave of government, for a period of ten years. It happened that on the ninth of the first moon of the forty-fifth year of Kien-lung, Lieu-she, a married sister of Lieu-hoey-kuey, came home to visit her father, Lieu-kuen-fung, and her mother, Chang-she; and one day, it being cold weather, her father sent her into the chamber of the servant, Pan-kiun-ting, to fetch fire-wood. Pan-kiun-ting, being at the time intoxicated, laid hold of her clothes, and endeavoured to prevail on her to lie with him. Lieu-she resisted, but finding herself unable to escape him, cried out, and was heard by her mother, Chang-she, who immediately came to her assistance, upon which the slave, Pan-kiun-ting, relinquished his hold, and was struck twice by the mother, Chang-she. Pan-kiun-ting, fearing punishment, soon after ran away from the house, and took away with him some bread and 120 *lee* (about ninepence) in money.

"Lieu-she, having complained to her brother of the

attempt of the slave, and having likewise solicited him to lay an information before a magistrate in order to have the offender punished, returned the next day to her own home and imparted the circumstance to her husband, Puon-kiun-ye. As it was a disgraceful affair, he merely endeavoured to console her, and took no further notice of the circumstance until the fourteenth of the second moon, when the absconded slave, Pan-kiun-ting, being unable to gain a livelihood elsewhere, returned to his master, Lieu-hoey-kuey, acknowledging himself guilty. Lieu-hoey-kuey did not, however, take any steps in consequence until the next day, when his father, Lieu-kuen-fung, ordered him to bind the offending slave, and carry him to a magistrate that he might be punished. Lieu-hoey-kuey, fearing that one or two persons might not be sufficient to accomplish the object, sent his servant, Lieu-tsing-ta, the same evening to his sister's husband, Puon-kiun-ye, begging him to come immediately and give his counsel and assistance.

"Puon-kiun-ye having arrived, and the slave, Pan-kiun-ting, being again intoxicated and asleep, Lieu-hoey-kuey took a bamboo cord, and, accompanied by his brother-in-law, Puon-kiun-ye, and his servant, Lieu-tsing-ta, went into the chamber of Pan-kiun-ting before the lamp was extinguished. When he began to tie the cord in a knot about the neck of Pan-kiun-ting, the latter awoke, and, discovering their intention, endeavoured to rise from the bed. Upon this, Lieu-hoey-kuey desired Lieu-tsing-ta to hold him down by the head and Puon-kiun-ye by the feet, while he proceeded himself to tie his hands. At this time Pan-kiun-ting, whose body was uncovered (he having previously taken off his clothes), turned about and kicked with his legs, abusing them all, in the following terms: 'If you carry me to the magistrate, I shall only be beaten or

pilloried and then sent home, after which I will surely take your lives in revenge.' Lieu-hoey-kuey, being enraged at this language, took up a small knife used for cutting tobacco, which happened to lie at the head of the bed, and wounded Pan-kiun-ting with it in the lower part of the belly, so that he died very soon afterwards.

"The parties present then became fearful of the consequences of the murder, and covered up the body with the bedclothes. After the first watch of the night, Lieu-hoey-kuey desired Puon-kiun-ye and Lieu-tsing-ta to take away the corpse and throw it into the water, which they did accordingly; but soon after Pan-kiung-tching, and others related to the deceased, found the body and lodged a complaint with the magistrate of the district. Lieu-hoey-kuey, being in consequence brought to trial and examined, confessed that the foregoing statement of the circumstances was correct.

"The facts being thus substantiated, the sub-viceroy pronounced the offence to be the wilful murder of a hired slave, and to be equivalent to the wilful murder of a serving-man, which, according to the penal Code, is punishable with death by strangulation, at the next general execution and gaol delivery.

"The supreme criminal court remarks thereupon that, according to the penal Code, if a master strikes his servant so that he dies in consequence of the blows received, he shall be punished with one hundred blows and three years' banishment; again, if a master designedly kills his serving-man, he shall be strangled; lastly, if any man unauthorizedly kills an offender after he has seized him, the punishment shall be conformable to the law in the case of killing in an affray. Now, because unauthorizedly killing manifestly comprehends both designed and malicious killing, designedly killing an apprehended

offender will be punishable in the same manner as the offence of killing an innocent person in an affray, that is to say, killing without a positive design to kill; this precisely applies to the case in question, except that the deceased was not the equal, but the servant, of the person who killed him; the punishment, therefore, ought to be conformable to the law against a master killing his servant in an affray, which is one hundred blows and three years' banishment, or, practically, forty blows inflicted at the place of banishment.

"The sub-viceroy altered the sentence of Lieu-hoey-kuey conformably to the suggestion of the supreme court, and added, that as Puon-kiun-ye and Lieu-tsing-ta threw the corpse away, they ought to be punished only one degree less severely, as accessories, that is to say, with ninety blows, and banishment for two years and a half.

"The supreme court again remarked, that there is a specific regulation applicable to those less serious cases of homicide, for which no man is made legally answerable with his life, which regulation declares, that whoever throws away the corpse in such cases, shall only be punished as in any case of secretly interring a corpse of an individual whose decease has been concealed, which punishment amounts to eighty blows. Now, in the present case, the offence of killing the slave not being determined to be capital, that of throwing away the corpse cannot be punished with more than eighty blows as aforesaid; and as Lieu-hoey-kuey directed the corpse to be thrown away, those who executed the same were only accessories to the offence and, accordingly, subject to the punishment reduced one degree; Puon-kiun-ye and Lieu-tsing-ta ought therefore to be sentenced each to receive seventy blows, or, practically, twenty-five blows.

"The supreme court lastly notices the edict of the thirty-

eighth year of Kien-lung, by which it is ordered that all magistrates of cities of the first, second, and third order, who concur in pronouncing a sentence of death, which is afterward set aside as erroneous, and is exchanged for banishment, are subjected to a diminution of one degree of rank, and removal to an inferior office. It is thereupon suggested that the several magistrates who concurred in the erroneous sentence adopted and reported by the sub-viceroy should be degraded accordingly.

"On the twenty-fifth day of the fifth moon of the forty-sixth year of Kien-lung the above proceedings were laid before the Emperor, and on the twenty-ninth they received the ratification of his Imperial Majesty."

I have quoted in full the above revision of the sentence of a lower court, because it will be interesting to know that a superior judicial tribunal in China is careful in its revision, and that this is done with directness and legal acumen.

The administration of the law by Chinese courts appears simple and practical. Suits are commenced by a petition, in which the case is stated, and there are certain days in every month for receiving petitions, but probably this is a rule with exceptions, though it shows regard for system. There being no professional lawyers in China, the petitions and other papers that may be necessary in the suit are prepared by a certain class who make it their business to prepare legal documents, and, while filling an important vocation, are looked upon with disfavour by the officials. The petition and other documents must bear the seal of the *ti-pao*, who is an official of the lowest rank, but an important one, as in his person the official class seems to come in real contact with the people, for he is the small nerve from the government which loses itself among the people.

The seal of the *ti-pao* authenticates the party and officers testifying to his residence. When the petition has been properly stamped with the seal of the *ti-pao*, it passes through several hands and is copied before it is presented to the magistrate; but there are certain cases in which the petitioner is permitted to appeal directly to the magistrate by going to his office, or by handing him the petition as he passes through the street, a privilege, however, that is only indulged when the case is of a serious criminal nature, for in common matters it would be a breach of law thus to approach or accost the magistrate. If the petitioner's interest will be better served by presenting the petition on a day other than the regular days, the payment of an extra charge will help along the progress of the document. If the petitioner is a woman, or a member of the gentry, the representation is by proxy, usually by a servant of the family, and sometimes by a paid agent; but if the case is lost, the petitioner must appear in person. After the petition is examined by the magistrate, it is sent to a certain board of the magistracy, and the defendant is summoned to appear. The petition is generally answered as soon as the defendant has notice of it, and the answer takes the same course as the petition. It is not always customary for the defendant to appear. He is summoned to appear, and the police are ordered to arrest him and bring him into court; but if he pays a sum satisfactory to the police, as is sometimes done, they report that he is not to be found. This custom is successful to a certain degree and is occasionally winked at as a perquisite of the office of a Chinese policeman.

In criminal cases, the criminal may be arrested and delivered to the magistrate by one of the gentry, with the proofs of guilt or reasons for suspicion. When the commission of a crime has been brought to the knowledge of

a magistrate, and the criminal has escaped detection, the local officials are often held responsible, under a threat of degradation if the criminal is not produced. If the crime is very serious, a large sum of money may prevent investigation. The principle of mutual responsibility here appears in its repulsiveness: a high official of a province once gave orders for the destruction of a whole village if a noted criminal were not delivered, the communities or villages being considered by custom as "cities of refuge," as well as held accountable for the peaceful conduct of their inhabitants.

If the party arrested pleads "not guilty," he may be released on satisfactory bail; and if the bail is given by one of the gentry, it argues favourably in behalf of the arrested party. If the offender is convicted of a serious offence, the one who stood his bail commits an offence by that act, and is responsible for the appearance of the offender in case of a fresh charge against him. But many cases, both civil and criminal, are referred to the neighbours of the litigants or the accused, and when they are unable to adjust matters finally, or refuse to become bail, the case goes before the magistrate greatly prejudiced.

The material distinction between Chinese and western criminal jurisprudence is seen in the trial of the accused. The great safeguard, that the accused is presumed innocent until proven guilty, is reversed in China, and he is supposed to be guilty. The parental theory follows him into court and denies him the right to counsel, as a parent would not admit an advocate for his son who had offended him. The trial is not wholly to decide whether the accused is guilty or not, for his guilt is usually assumed, but to determine the nature of the crime and the degree of punishment to be inflicted; and as confession is neces-

sary in order to settle the case, if the accused will not confess, he is tortured until he does confess.

This chapter may appropriately include a quotation from M. Huc's interesting papers on the Chinese Empire, in which are vividly portrayed some of the characteristics of a Chinese magistrate and of the administration of justice: "Although somewhat inclined to doleful lamentation, the magistrate Pao-ngan was, on the whole, a very good fellow, and took the trials and vicissitudes of this nether world pretty easily. He had come into office rather late, and only when his days were on the decline, but he certainly did his utmost to make up for lost time.

"He loved law to the bottom of his heart, and never failed to make the most of it. He had two or three kinds of myrmidons constantly employed in rummaging up, in all quarters of the town, all the little affairs that could be brought within his jurisdiction, and his good humour increased with the number he had on his hands.

"Such an eagerness for the fulfilment of duties that are mostly considered troublesome and annoying could not but appear to us very edifying, and we found ourselves charitably disposed to admire in Pao-ngan his extraordinary passion for justice. But he speedily undeceived us, by very frankly declaring that he wanted money, and that a well-managed cause was the best means of procuring it. 'If it is allowable,' said he, 'to make a fortune by trade and commerce, why may not one also grow rich by teaching reason to the people, and developing the principles of justice?'"

These not very elevated sentiments are common to all the mandarins, and they express them openly and without scruple. The administration of justice has become a regular traffic, and the chief cause of this abuse, I

really believe, is to be found in the insufficient remuneration allotted by government to magistrates. It is extremely difficult for them to live in suitable style, with the palanquins, and servants, and the costume suitable to their position, if they have nothing more to meet all these expenses than the slender resources granted to them by the state. Their subordinates have no pay at all, and have to indemnify themselves as well as they can, by exercising their industry on the unlucky suitors who pass through their hands — veritable sheep, from whom every one snatches as much wool as he can tear off, and who are not unfrequently at last completely fleeced.

Toward the commencement of the present dynasty these abuses had become so flagrant, and the complaints on the subject so unanimous throughout the Empire, that the cantons drew up a memorial against the country tribunals, and presented it to the Emperor Kang-hi. The answer was soon given, and a curious one it was. "The Emperor, considering the immense population of the Empire, the great division of territorial property, and the notoriously law-loving character of the Chinese, is of opinion that lawsuits would tend to increase, to a frightful amount, if people were not afraid of the tribunals, and if they felt confident of always finding in them ready and perfect justice. As man," continues the imperial logician, "is apt to delude himself concerning his own interests, contests would then be interminable, and the half of the Empire would not suffice to settle the lawsuits of the other half. I desire, therefore, that those who have recourse to the tribunals should be treated without any pity, and in such a manner that they shall be disgusted with law, and tremble to appear before a magistrate. In this manner the evil will be cut up by the roots; the good citizens, who may have difficulties among themselves, will

settle them like brothers, by referring to the arbitration of some old man, or the mayor of the commune. As for those who are troublesome, obstinate, and quarrelsome, let them be ruined in the law-courts — that is the justice that is due to them."

CHAPTER VIII

EXTRA-TERRITORIALITY

It is a doctrine of international law that a state has jurisdiction over the person and property of foreigners upon its land and waters, and is responsible for acts done within its boundaries by which foreign states or their citizens are affected.

But this right, which international law recognizes as belonging to a sovereign state, China has partly surrendered in the treaties which she has made with western nations. According to those treaties the person and property of foreigners upon the land and waters of China are exempt from her jurisdiction, and are no longer subject to the operation of Chinese law. The person is now under the protection of his own flag, and his property is safeguarded by the laws represented by that flag.

In thus surrendering to western nations jurisdiction over their citizens and their property, although both be within the territorial limits of China, the responsibility of giving the necessary protection to both still remains an obligation on China, which she is under a treaty guarantee to perform.

In despoiling herself of half of her sovereignty and conceding it to western nations, China has given effect to the laws of those nations within her own territory; this fact is expressed by the legal term *extra-territoriality*.

In connection with this subject China has complained long, and with apparent sincerity. Her contention is that

western nations have forced her to enter into treaties with them by which her sovereign rights have been partly taken away, and yet hold her responsible, as if she were in full possession of those rights.

Upon its face the contention is just, but the advocates of China seem to forget that as early as the ninth century China had granted, of her own free will, exemption from her laws to foreigners within her territory. The Arabs who built a mosque at Canton long before Columbus discovered America were granted by China the liberty of being governed by their own laws; and the Portuguese who settled at Macao exercised jurisdiction over their countrymen with the permission of China. It is also a fact that when foreign consulates were established in the foreign settlement outside the city of Canton, the consuls heard and determined all complaints against the men of their respective nations, and China assented.

If the principle of local self-government has been transplanted to the soil of China by western nations, it was through the approving agency of China herself; for at that period, as well as later, she could probably have successfully opposed such a principle.

The truth is, China wanted as little intercourse as possible with foreigners, and seeing that it was very difficult to keep them out of her territory, she was willing to let them manage their own household affairs, as best suited themselves, when they took up their abode therein. The disposition to avoid everything like trouble or responsibility, which is inherent in the Chinese character, has placed the Empire at a great disadvantage in the negotiations with western countries. In the main, the common-sense diplomacy of the West has proved an overmatch for the finesse of the diplomacy of the East.

When, therefore, Caleb Cushing arrived in China as the

accredited representative of the government of the United States, it was not so difficult for him to secure from China a large grant of treaty powers. China had been prepared, by her own previous acts, to grant extra-territorial rights to western nations, and when Mr. Cushing made the demand for the grant, the subject was not new to Chinese statesmen.

The treaty which Mr. Cushing negotiated with China, on behalf of his government, was the clearest and fullest that had been negotiated between China and any other government, and was the authority for settling disputed questions between Chinese and foreigners up to the treaty revision of 1858–1860.

In the treaty between China and Great Britain, dated 1858, the doctrine of extra-territoriality is laid down in Article XVI., and appears as a part of Section II. of the Chefoo Convention. The latter reads as follows: The British Treaty of 1858, Article XVI., lays down that "Chinese subjects who may be guilty of any criminal act towards British subjects shall be arrested and punished by Chinese authorities according to the laws of China.

"British subjects who may commit any crime in China shall be tried and punished by the functionary authorized thereto, according to the laws of Great Britain.

"Justice shall be equitably and impartially administered on both sides."

The words "functionary authorized thereto" are translated in the Chinese text "British Government."

"In order to the fulfilment of its treaty obligation, the British Government has established a supreme court at Shanghai, with a special code of rules, which it is now about to revise. The Chinese Government has established at Shanghai a mixed court, but the officer presid-

ing over it, either from lack of power or dread of unpopularity, constantly fails to enforce his judgments.

"It is now understood that the *Tsung-li Yamen* will write a circular to the legation inviting Foreign Representatives at once to consider with the *Tsung-li Yamen* the measures needed for the more effective administration of justice at the ports open to trade.

"It is agreed that whenever a crime is committed affecting the person or property of a British subject, whether in the interior or at the open ports, the British minister shall be free to send officers to the spot to be present at the investigation.

"To the prevention of misunderstanding on this point, Sir Thomas Wade will write a note to the above effect, to which the *Tsung-li Yamen* will reply, affirming that this is the course of proceeding to be adhered to for the time to come.

"It is further understood that so long as the laws of the two countries differ from each other, there can be but one principle to guide judicial proceedings in mixed cases in China, namely, that the case is tried by the official of the defendant's nationality, the official of the plaintiff's nationality merely attending to watch the proceedings in the interest of justice. If the officer so attending be dissatisfied with the proceedings, it will be in his power to protest against them in detail. The law administered will be the law of the nationality of the officer trying the case. This is the meaning of the words *hui t'ung*, indicating combined action in judicial proceedings, in Article XVI. of the treaty of Tientsin; and this is the course to be respectively followed by the officers of either nationality."

The meaning of Article XVI. could hardly be expressed in clearer language. It unconditionally provides that a

British subject in China shall be tried before a British court and adjudged by British law.

To carry into effect Article XVI. the British government has established a supreme court at Shanghai, which is presided over by an official known as the chief justice, and before which the personal and property rights of British subjects in China are heard and determined. When a British subject does not reside at Shanghai, but at some other place in China, any complaint against such subject is heard by the nearest British consular officer, against whose decision appeal is optional.

Another clear provision of the article is that the Chinese government shall establish a mixed court at Shanghai for the purpose of adjudicating all matters in which a subject of China, residing at Shanghai, may be the defendant and a foreigner the plaintiff.

Under the favoured nation clause other foreign nations, having treaty relations with China, enjoy for their citizens all the privileges and exemptions of Article XVI., but the British government is the only government that has a court established in China according to the regular judicial system and organized to meet the dignity and ends of that system.

All the other nations exercise judicial power through their respective consular representatives, who, when sitting in a judicial capacity, preside over what are known as consular courts.

But I believe that the reader will better understand what is meant by extra-territoriality if I select the city of Shanghai and explain the main principles of its government.

The city of Shanghai is about twelve miles from the mouth of the Hwang-pu River. When Shanghai was made a treaty port, China agreed that certain territory,

bordering the river and contiguous, should be set apart for the residence of foreigners and for business purposes. By virtue of the agreement, the government of France, in co-operation with that of China, measured off a certain area of land now called the French Concession, and over this the French government, through its consular officer and a municipal council, exercises exclusive control. At the same time another area was measured and set apart for the government of Great Britain, and a third for the government of the United States of America. But it appears that the last two governments did not accept separate and independent concessions as did the French; they acted in concert, and the two concessions which were measured off for them were united under what is now known as the International Settlement. The International Settlement is under the control of the foreign consular representatives at Shanghai, and a municipal council composed of nine members, who are citizens of the principal foreign powers. When the foreign consular representatives are considering a subject relating to the International Settlement, they meet together and act as the consular body. If the subject under consideration should be difficult of application, or should it involve a question of diplomacy, it is referred to the foreign ministers at Peking for their decision.

The members who compose the municipal council of the International Settlement are elected by the rate (tax) payers of the settlement. Before a resident of the settlement is qualified to vote, it must appear on the ratepayers' list that he owns property of a certain value, or pays taxes to a certain amount, and the holding of property and payment of taxes are controlled by special regulations.

There are other regulations providing how property in the settlement shall be assessed for taxation and how

taxes shall be collected. And once in each year the rate-payers meet in general meeting, when the annual fiscal budget is submitted to them for their approval, and no expenditure is legal without such approval.

The regulations for the police and fiscal government of the city, as well as those providing for the election of a municipal council and its duties, are drawn up by the consular body and approved by the diplomatic body; they are then the statute law of Shanghai.

The government of China collects a very small land tax in the area of the International Settlement, and, with that exception, China has practically no part whatever in the imposition or collection of taxes on property in the settlement.

There is a police force for the settlement, which is appointed by, and is under the management of, the municipal council. This force is made up of foreigners, Chinese, and Sikhs. It has a chief of police and subordinate officers, on the same principle as the police force in a western city. No arrest can be made in the settlement except by the police, thus constituted, acting under a warrant issued by a proper consular officer or, conditionally, by the mixed court.

It has been seen that Article XVI. provides for a British supreme court and for a mixed court, and it has been stated that the former is organized according to the British judicial system, but the organization of the latter may now be explained.

The mixed court is so called because of the nature of the cases that come within its jurisdiction, and because there presides with the Chinese magistrate a foreign consular officer whenever the subject before the court is not of a purely Chinese nature.

The treaty provides that the law by which the court is

to be governed is the law of the nationality of the officer trying the case, which means that the law governing the proceedings and trials in the mixed court is Chinese law; the consular officer who presides with the Chinese magistrate has no authority except to watch the proceedings, and, should he be dissatisfied, to report his reason for dissatisfaction to his government. The magistrate hears the evidence, rules as to its admissibility, and delivers the judgment of the court subject to appeal, as in the other cases decided by lower Chinese courts.

But the magistrate of the mixed court is not allowed to arrest a Chinese in the settlement except through the agency of the foreign police. He has his own police, called *yamen* runners, about his court, but these harpies are not permitted to exercise their calling in the International Settlement.

The settlement is further protected against the authority of China to the extent that, if China should wish to arrest one of her own subjects, residing in the settlement, such subject could not be arrested until the warrant for the arrest had been countersigned by the senior consular representative. The signature of the magistrate alone would not insure its execution. And if the Chinese who is to be arrested is in the employment of a foreigner, the warrant would, in such a case, have to be approved by the consular representative of the foreigner and then countersigned by the senior consular representative. And after China had conformed to the above requirement, the arrested Chinese could still claim the right to have the accusation against him heard and decided under the supervision of a foreign consular officer sitting with the magistrate in the mixed court.

The spirit and letter of the treaties and regulations mean, that all who reside in the settlement, whether for-

eigners or natives, shall be exempt from the interference of the Chinese government, that over a foreigner that government shall have no control whatever, and that over a native its control shall be primarily exercised under the supervision of a foreign official.

There are as many consular courts at Shanghai as there are consular representatives, and a complaint against a foreign resident, whether this is civil or criminal, must be made to his consul, who, when necessary to a proper adjustment, sits as a judge to hear and decide the issue. The organization of a consular court will be best understood by my selecting one and explaining it, as each consular court is similarly organized and has about the same authority over the men of its nation.

No American citizen at the port of Shanghai can be either arrested, tried, or convicted of any offence, or complained against in any civil action, except by and through the action of the consul-general of the United States of America at Shanghai. Whether an American citizen commits a criminal offence, or is amenable to a civil process, there is no officer of China or of any other nationality in China who has jurisdiction except a consular or diplomatic officer of the country of the accused. As stated, at Shanghai the only warrant or summons an American citizen is required to obey must bear the signature of the consul-general of the United States, and should be executed by the United States marshal, an officer of the United States consular court at Shanghai. In a criminal proceeding, when the imprisonment may be for a longer period than sixty days, and the fine more than one hundred dollars, the consul-general should not sit alone, but have two American citizens to sit with him, who are designated, in the law enacted by Congress in such cases, as associates. These associates are usually selected, as

also by law provided, to sit with the consul-general in all civil cases where the sum involved is five hundred dollars or more. Appeals against the decision of a United States consular court are regulated by laws passed by Congress, and this court is intended to be similar in organization and powers to that of a United States district court. At every port of China, where the United States has consular officers, each consul has the same jurisdiction over Americans at that port as the consul-general has over Americans at Shanghai. Appeals against the decision of a United States consular court in China are to the court of the United States minister at Peking, when the amount involved does not exceed twenty-five hundred dollars; when the amount exceeds twenty-five hundred the appeal may be made to the ministerial court or to the circuit court of California, and the rules governing appeals in United States courts substantially apply.

As already indicated, the French Concession is under the control of the government of France. Men of other nations may reside or own property in the concession, and they could not be interfered with by the French authorities; but the French have a municipal council and police force of their own, with regulations independent of those of the International Settlement. They also have a mixed court similar to the mixed court of the International Settlement, but separate and governed by its own rules.

As the International Settlement and the French Concession are contiguous, the necessity for rules to define the jurisdiction and powers of the two mixed courts was evident, and the following are the rules which were drafted by the consular body and approved by the diplomatic body at Peking for that purpose: —

"1. In all civil cases between Chinese the plaintiff will follow the defendant, and will sue him before the Mixed Court of his, the defendant's, residence.

"2. In all criminal cases where foreigners are not concerned and in all police cases against Chinese residents in the Settlements, the Mixed Court of the Settlement in which the crime or contravention has been committed is alone competent.

"3. In mixed civil cases: —

"(*a*) If the plaintiff is a foreigner, not of French nationality, and the Chinese defendant is a resident of the International Settlement, he is to be sued before the Mixed Court of the International Settlement.

"(*b*) If the plaintiff is French and the Chinese defendant is a resident of the French Settlement, he is to be sued before the Mixed Court of the French Settlement. ["Concession" is strictly proper.]

"(*c*) If the plaintiff is a foreigner, not of French nationality, and the Chinese defendant is a resident of the French Settlement, the latter shall be sued before the Mixed Court of the International Settlement, whose warrant or summons for his appearance, after counter-signature by the French Consul-General, will be executed or served by the runners of the International Mixed Court with the assistance of the police of the French Settlement, without previous hearing in the Mixed Court of the French Settlement.

"(*d*) If the plaintiff is French and the Chinese defendant is a resident of the International Settlement, the latter shall be sued before the Mixed Court of the French Settlement, whose warrant or summons for his appearance, after being countersigned by the Senior Consul, will be executed or served by the runners of the French Mixed Court with the assistance of the police of the Interna-

tional Settlement, without previous hearing in the Mixed Court of the International Settlement.

"4. In criminal cases where a foreigner, not of French nationality, is complainant, the Mixed Court of the International Settlement is competent; if a Frenchman is the complainant, the Mixed Court of the French Settlement is competent."

CHAPTER IX

GUILDS

If political and military China were as well organized as commercial China, the foreign department of her government would not be so continually embarrassed by the demands of western nations for spheres of influence and concessions of territory. While in theory the government is absolute, not a few of the disorganizing elements of a democracy enter into its practical administration, and there is no central influence going out from the capital to the provinces to centralize political thought or control military organization.

China in commerce presents quite a different view. The commercial influences of the Empire are well organized and directed, and are under the guidance of expert and competent business men. In all the more important marts of trade the merchants appear to know the capacity of each market and to regulate ventures accordingly. Of course mistakes are made and failures follow, but the commercial life of China is perhaps as free from business errors as that of any nation.

But any knowledge of China in commerce would be superficial without a clear understanding of the origin, the power, and the influence of the guilds. The guilds are organized upon carefully defined principles, and their scope and influence in business cannot be successfully overlooked. Their power has subdued the highest officials of a province, and emperors listen attentively to their com-

plaints. If judged by their influence, they have somewhat more than a semi-official status.

The guilds have enjoyed a long life in China. The ancient annals of the Empire give accounts of them, but their origin is succinctly set forth in the constitution and by-laws of one of the largest and most influential of these organizations as follows: "*Wei Kuan* [guilds] were first established at the metropolis by mandarins, among compatriots or fellow-provincials, for mutual aid and protection. Subsequently, merchants formed guilds like those of the mandarinate, and now they exist in every province." At Peking a majority of the members are generally of the official class, but in the provinces of the mercantile class. It would seem that at the capital the necessities of the gentry and lower officials demanded some such organization for mutual protection against the greater influences which dominate there. In the provinces the merchant class associated as a means of advancing their business relations by regulating and adjusting them according to rules which were framed by each guild for its special guidance. The rules of the guild organized in the province in which the port of Ningpo is situated declare that the guild has the twofold object of protecting its members against sectional prejudices, to which settlers from distant places are subject, and preventing litigation among its members. These two main objects are made known in the preamble of the guild in the following words: "For a century no province has been without Ningpoese residents. Ningpo is a maritime region. Those of its people who cannot find employment as agriculturists resort to other places for trade. Here at Wenchow we find ourselves isolated, — mountains and seas separate us from Ningpo, — and when in trade we excite envy on the part of Wenchowese, and

suffer insult and injury, we have no adequate redress. Mercantile firms, each caring only for itself, experience disgrace and loss — the natural outcome of isolated and individual resistance. It is this which imposes on us the duty of establishing a guild."

Of course the regulations of a guild are to promote the objects for which it was organized, as each guild has its own particular business. There are the bankers' guild, the tea guild, the silk guild, the piece-goods guild, and others. Many of the larger and more wealthy guilds have their headquarters in the principal provincial cities with branch offices or subguilds in the smaller cities and towns.

If the constitutions and by-laws of the guilds of China could be codified, doubtless they would form a most interesting and instructive code of mercantile law. It would probably be a code in which some of the underlying principles of modern mercantile law could be traced, or, it may be, prove the foundation of other codes on the subject.

The headquarters of the wealthy guilds are usually the most palatial buildings to be found in a Chinese city. They contain not only the hall where the members meet, but also rooms set apart for the lodging of high officials when travelling, and for scholars *en route* to the metropolitan examinations, and places for theatrical performances. The officers consist of a general manager and a committee, who are elected annually, but are eligible for reëlection. There is a permanent secretary, who is a scholar of literary rank and who is paid a salary. The guilds invariably select scholars of literary rank for their secretaries, because such, by virtue of their literary position, are recognized as having an official standing, and because the delegate of a guild has access to the official class.

The secretary is the medium of correspondence. He is regarded as the guild's legal representative in defending its interest or in demanding redress for an injured member.

The deliberations of a guild are intended to be dignified and conservative. With this object in view the membership is limited to about thirty, and the junior partners of a partnership are not allowed to attend the meetings. There are no written parliamentary rules by which the proceedings are to be governed, but there are regulations such as one which a guild found necessary to adopt in order to protect itself against useless debate. The resolution reads as follows: "At the public meetings of the guild, should there be any one of higher abilities than the rest, with a plan of his own to propose, whatever his station may be, he must argue and explain the case before all the members. He must not continue to dispute the matter after it has been decided, as such a proceeding is useless when there is no one to second it; that will prevent waste of the guild's time."

The revenue of a guild is derived from self-imposed taxes on commodities sold by the members, and to know what amount has been thus sold, a searching proceeding is provided for. On this subject a by-law of a Canton guild reads: "At the annual meeting members shall hand in duly sealed statements of their contributions for the year, making obeisance in the guild temple in asseveration of good faith. In the event, however, of confusion in any account or its being called into question, it is understood that, notwithstanding that the member shall have already testified to its accuracy before the gods, a ballot shall be cast to decide whether the member whose account is doubted shall produce his books for the inspection of the members. If the account proves to be false, he shall be fined five times the amount due, and if he refuses to

produce his books or submit to the finding of the meeting, he shall be expelled from the guild." Further to secure accuracy there is a monthly inspection of the books of every establishment connected through its members with a guild. The inspection is made by clerks of various firms in rotation, two being detailed every month where the firms are numerous. There is no business firm of English origin that would submit to any such inquisitorial proceedings, but in China the system is self-imposed and works satisfactorily.

That members may not stray off and engage in litigation, the guilds have provided for the settlement of disputes in their own households by laws like the following: "It is agreed that members having disputes about money matters with each other shall submit their cases to arbitration at a meeting of the guild, where the utmost will be done to arrive at a satisfactory settlement of the dispute. If it prove impossible to arrive at an understanding, appeal may be made to the authorities, but if the complainant have recourse to the official direct, without first referring to the guild, he shall be subjected to a public reprimand."

Another rule to prevent members from going to law reads: "Among members of our compatriots who come here there are those who engage in business transactions, and have current accounts, as well as those who enter upon joint speculations. It is impossible to say that disputes may not arise among them. If anything of the sort occurs, the guild may settle the difficulty in the manner most advantageous to all. Justice shall be observed, and the facts of the case brought to light, and the matter be decided according to what is right. That justice may be manifested, there must be no concealment."

I have been careful to point out the regulation that gives a guild the inquisitorial right over the business of

members as well as the two regulations that compel the submission of disputes, not business disputes only, to final adjustment under the penalty of expulsion. It is such power over members that gives to a guild its compact organization and its influence in commercial China. In another place in this chapter attention will be directed to the manner in which in some cases that great influence has been exercised.

Not only are there comprehensive regulations meant to indicate the general scope and functions of a guild, but also on specific subjects there are rules which relate to the minutest details. There are the rules on sale by credit, fixing the dates of payment according to the nature of the articles sold.

The charge for storage, with attendant responsibility, is provided for by the following rule: "It is decided that the seller of goods shall store them for seventy days free of charge; but if they are not removed till the seventy-first, they shall be charged a month's storage; if not removed at the end of that period, they become chargeable for two months' storage the first day after; and so on. Contravention of this rule subjects seller and purchaser alike to a fine equal to twice the regular amount of storage, the fines to be paid into the treasury of the guild."

With reference to weights and measures there does not appear to be any common standard, but provision is made by some of the guilds for standard steelyards and measures: "It is agreed that the guild shall keep a standard set of weights and measures, which shall be adopted by all members, that there be no light issues and heavy receipts. Should it become known that a member is using scales at variance with the standard set, he shall be heavily fined."

It is the custom of some of the guilds to maintain fire-engines, and the members are required to aid in extinguishing fires. There is a rule which makes the seller of goods in storage the sufferer for their loss by fire for five days after sale, but when these are destroyed later, the purchaser makes good the loss. In case of destruction in civil strife, it is agreed that purchaser and seller shall be equal losers.

Another rule is, that "no business shall be transacted before the middle of the first month of the year, that goods sold in the tenth month shall be paid for by the middle of the twelfth, those sold in the eleventh shall be paid for in the second month of the year following, that goods sold in the first month shall be regarded as if sold at the beginning of the second, and that from the first of the second month the forty, fifty, or sixty days' credit allowed to certain commodities respectively shall commence. It is provided also that goods sold in the twelfth month shall be taken by the purchaser, or be liable to charge for storage."

Although the guilds have great influence in official China, they are careful not to compromise this influence by any protection to a member who does not promptly pay his dues to the government. "The consequence of attempts at evasion or fraud in matters of the revenue involving fines by the authorities must be borne by the individual implicated, who must clear himself of all trouble as best he can, as the guild will not concern itself in such affairs." But a guild will undertake to assist in the recovery of stolen property. "Any member concealing a robbery or retaining stolen property, in order to exact a heavy ransom, shall be fined ten times the value of the goods, and if he fail to pay the fine, he shall be expelled from the guild."

If western merchants have introduced any irregular business methods into China, the practice of fictitious buying and selling is not one of them. The Chinese merchant was an adept in the practice of fictitious selling and buying before he had any business relations with a western merchant, and to such a demoralizing extent did he carry it that the guilds, many of them, have adopted stringent rules against the practice. True, the practice is not made an offence by the statutes and criminal code of China, but there is a law against *monopolizing* markets so broad, comprehensive, and distensible as to include penalties against all mercantile transactions that are inimical to the public weal. There are two cases specially reported of imperial intervention to prevent and punish monopolies. In 1823 a censor memorialized the Emperor respecting fictitious traffic in breadstuffs, representing that certain merchants, availing themselves of a drought that was affecting the food supply, had established syndicates for fictitiously buying and selling cereals. The Emperor acted upon the memorial by commanding the high provincial officials to issue prohibitory proclamations against the practice. I have before me a regulation of a guild which reads as follows: "It is agreed that, fictitious buying and selling being illegal, this guild interdicts that to its members. If violations of that law come to our knowledge, we will transmit to the authorities the offender's name; assuredly no favouritism will be shown." The Code provides: "When the parties to the purchase and sale of goods do not amicably agree respecting the terms, if one of them, monopolizing or otherwise using undue influence in the market, obliges the other to allow him an exorbitant profit, or if artful speculators in trade, by entering into a private understanding with the commercial agent, and by employing

other unwarrantable contrivances, raise the price of their own goods, although of low value, and depress the prices of those of others, although of high value, in all such cases the offending parties shall be punished with eighty blows each for their misconduct.

"When a trader, observing the nature of the commercial business carried on by his neighbour, contrives to suit or manage the disposal or appreciation of his own goods in such a manner as to derange and excite distrust against the proceedings of the other, and thereby draws unfairly a greater proportion of profit to himself than usual, he shall be punished with forty blows.

"The exorbitant profit derived from any one of the foregoing unlawful practices shall, as far as it exceeds a fair proportion, be esteemed a theft, and the offender punished accordingly, whenever the amount renders the punishment provided by the law against theft more severe than that hereby established and provided. The offender shall not, however, be branded, as in the ordinary cases of theft."

It has been seen that a guild is an association of men who are supposed to have a common interest at stake, and that the meetings are regular, in order that all matters relating to their several businesses may be freely and fully discussed and rules formulated for conducting the same. The combination reaches with its influence every trade interest that is common to its members. Its decisions are not called into question, but are implicitly obeyed under the pain of a heavy penalty. The inner workings of the guilds are not generally known. The members are prohibited from discussing its affairs in public or giving any information on subjects coming within the province of a guild. This is an example of the mysteriousness which is always an accompaniment of Chinese

doings. Complication is the delight of every association of Chinese.

The guilds no doubt had their origin in the necessities of the times, but the authority which they have assumed and their illiberality have about ceased to be beneficial to the development of the legitimate business interest of China. Their present status is not only one of a domineering commercial authority, but they have extended their powerful influence to political, religious, and social questions. To incur the displeasure of a guild means religious and social isolation and commercial ruin. And the Chinese, with their native instinct for trade and finesse in ways mysterious, have no equals as boycotters when aided by associations and combinations like guilds. On this point I copy from a report by a commissioner of the Swatow Imperial Maritime Customs: —

"These institutions seem to be a material manifestation of a local characteristic of the people, for not only do merchants combine for trade purposes, but the labouring classes, whatever their employment, all band together on the slightest pretext, whether their object is to obtain wages, or to secure the dismissal of an outsider. It is recognized throughout the Empire that in their remarkable faculty for combination, and the rigid obstinacy with which they maintain a position once taken up, the people of Swatow are equalled by none of their fellow-countrymen. In addition to the ordinary expenses, the guild has to spend a good deal in making presents to officials, giving theatrical performances in their honour, and showing them respect in various other ways. The income out of which all these payments are made, amounting to several thousand dollars in a year, is derived from a tax on merchandise, entrance and clearance fees from merchant vessels, and the rents of property owned by the guild.

So far as I can gather, the guild's methods of working seem to be as follows: Whenever a question crops up affecting any particular trade, the heads of the principal firms engaged in it first come to some agreement amongst themselves, then talk over the lesser firms, until they have gained a sufficient following, and only call a meeting of members to adopt what they have agreed upon as a rule of the guild. Nothing seems to be left to a vote in open meeting; if the dissentients are strong, the matter never comes before a meeting at all. Frequently the guild does not wish its actions to be visible, and then no laws are committed to writing, but a general understanding is arrived at, which seems to be just as binding as a formal utterance. In this way, most likely, they masked their resistance to the imposition of extra provincial *likin* —the Battery Tax — in 1890, when no dealer in the taxed articles dared to come to any arrangement with the collectors sent up from Canton, who were unable even to rent a place in which to establish themselves, so that eventually all attempts to force payment had to be given up. By the guild's decrees steamer companies are forced to pay claims for damaged uninsured cargo, which they feel to be unjust. If they demur, no case comes up for trial; the loss of their carrying trade is the penalty that quickly makes the objectionable demands seem reasonable. In 1881 some Swatow merchants were heavily fined for disregarding a customs rule affecting the examination of cargo. The guild took the matter up with spirit, and an anonymous note called upon merchants to cease all import and export trade unless their demands were complied with. In that particular instance the guild was unable to gain the point for which it was fighting, but the trade was kept completely at a standstill for fifteen days, pending its decision to submit. The guild concerns itself with the commercial

interests, individual and collective, of its members, settles trade disputes, enacts trade regulations, and performs, with equal readiness, the functions of a Chamber of Commerce, a Board of Trade, and a Municipal Council. It supports a fire-brigade, levies its own taxes, provides standards of weights and measures, fixes rates of commission, determines settling days, provides penalties against the tricks of trade, and acts generally as the guardian of its adherents, and the terror of all with whom they do business. It possesses a power to enforce its views which might be envied by many a government, for in it is vested the sole right to the exercise of that mighty engine, that stalwart crusher of arguments, to which an episode of modern Irish history has given the name of boycotting."

The above extract is a comprehensive summary of the scope and power of guilds in regulating and controlling the internal trade of the Empire. The sympathy between business interests, which is so essential to a healthy and prosperous condition, has been injuriously affected by the grasping and close-corporation nature of modern guilds in China.

But foreign business and foreign firms have not escaped the influence of guilds. They can interfere and have interfered with the commercial relations of western merchants in China, and there are examples to prove how seriously such relations have in consequence been impaired. I select a few from the reports of the Blackburn Mission to China. "A branch in Canton of a well-known Hongkong piece-goods firm was, for some reason or other, given up, their clients at once transferring their business to the Hongkong house, whither they proceeded in order to purchase their requirements. Sometime after, an attempt was made by Hongkong to reëstablish the branch house, never doubting for a moment that the pres-

tige of former existence would procure their wish. But, in the meantime, new interest had been created in favour of native agents, dealers, and transit companies, who were not prepared to give up such business as had been acquired. The piece-goods guild at once took the matter up, and a boycott was established against the foreign firm, an action which was only satisfied by the final and permanent giving up of the objectionable branch house. A like experience was the lot of a Shanghai firm, which, some years ago, attempted to establish a branch house in a northern port. This venture was looked upon as interfering with vested interests, and the firm was charged with taking away the living of agents, etc. A boycott ensued in which Shanghai was worsted, and serious losses were incurred. Again, a Shanghai firm, well established in Hankow as importers of Indian opium, was warned by the Swatow Opium Guild that the time had come when the distributing trade of this drug should be entirely in the hands of natives. Shanghai, feeling itself secure in its strength, simply laughed at the implied threat, but from that day forward the Hankow branch house could not sell an ounce. Traders and dealers alike transferred their business to Shanghai, and to-day not an ounce of opium is sold in Hankow by any foreigner."

An instance of the influence of a guild came under my own observation at Shanghai in 1898. It is the custom that when a Chinese who hails from Ningpo dies at Shanghai, his body is put into a coffin and stored away until the opportunity offers to send it to Ningpo. The subject is one that comes within the jurisdiction of the Ningpo guild, which keeps a house on the French Concession at Shanghai for such a purpose. There were a great many coffins containing dead bodies stored in that house, and the French Municipal Council had ordered

their removal in the interest of health and the convenience of the public, but the guild made known its intention to resist the removal. The Council insisted, and a riot was the result. Several Chinese were shot by the French police and volunteer force, and it was then that the Ningpo guild issued a secret order for the suspension of all business. There is a valuable trade between the province in which Ningpo is situated and Shanghai, and much of it is carried by steamers running between the ports of Shanghai and Ningpo, but when the order of the guild was issued, several large steamships remained moored at their wharves, and the business which drew its vitality from the source indicated was at a standstill until the order of the guild was revoked.

If what has been written above affords an insight into the agency of guilds in shaping commercial China, it is now in order to refer to their relations with official China.

It must be evident that in a country, wherein exist organizations such as those above written about, with the power and influence described, the central government must be proportionally weakened. Such was the case on the continent of Europe, for when civil life was the strongest there, the central government was the weakest.

And such is now the case in China, for the central government would hesitate to consider, against the known wishes of the guilds, almost any subject, whether its bearing were political or commercial. There are instances in which both the local and provincial officials have been overruled by the central government in favour of a petition of the guilds. I have before me the case of certain Ningpo traders whose exportations of rice were being very much embarrassed by the local authorities, and who, failing to obtain redress from their provincial authori-

ties, appealed to Peking. Their appeal was favourably considered, and they secured exemption from further annoyance.

The rules of a guild are read in the courts of China as if they were a part of the statutory law of the Empire. With reference to questions before the court such rules determine the decision of the court as if conclusive on the law relating thereto. The status in court of a member of a guild is more assured than that of one who is not a member. Often questions relating to commerce which come before a court are referred to a guild for settlement, and invariably the report of the guild is accepted as final. Under certain conditions, guilds defend their members when litigants, and scarcely would a Chinese judicial officer be so bold as to deny to a guild the privilege of appearing before him for that purpose.

But there is no seeming display of authority when a guild exercises its semi-official function. The utmost decorum and courtesy are observed. Nothing is done to subordinate the court or to cause its officers to feel a sense of inferiority. And it is through so much considerateness that a guild feels its way to the highest stations.

It is on record that the chairmen of several of the guilds' committees have associated with local officials in such government functions as the arranging of local tax assessments and tithes, the organizing and managing of fire-brigades and militia forces, the settlement of more important bankruptcy cases, the raising and administering of relief funds, and the control of orphanages and asylums. And the much-discussed *likin* tax is sometimes farmed out to guilds in return for a fixed annual subsidy. In this way the officials are enabled to meet promptly the demands on their respective exchequers, and the guilds readily avail themselves of the opportunity to place pro-

hibitive exactions on the goods of any one not a member, and thus debar outsiders.

The Chinese secretary of the United States Legation at Peking (E. T. Williams) has translated into English some recent Chinese legislation relating to commercial, railway, and mining enterprises, and there appears among the regulations one with reference to Chambers of Commerce, the second paragraph of which reads as follows: "Commercial guilds and mercantile associations, of whatever name, which have been already established by various trades in the several provinces at various ports, must change themselves at once, in compliance with the regulations now issued by this Board, into Chambers of Commerce, so that where such associations have not been established heretofore, there must at once be made a systematic investigation of the importance of their trade, that Chambers may be established if needed. As to the various Bureaus charged with the protection of trade, the viceroys and governors must determine whether or not they are to be retained or abolished."

Apparently from the above paragraph the central government had made up its mind to reform the most influential agency in the internal trade of China by neutralizing the power of the guilds, but the closing sentence of the paragraph clearly directs that nothing is to be done without the consent of the highest provincial authorities, and thus the subject remains about as before.

It has been a long time since the government of China has recognized the necessity of legislating at all, but from Williams's translation there does appear to be a slight awakening, and if it could be made to move on central lines, some good might result. At present, legislation is left too much to the provinces. The more important functions of government should remain and be exercised at

Peking, and not delegated to provincial officials. If the central government appreciates the necessity of curbing the dominating authority of the guilds in the business affairs of the Empire, the subject ought to be decided at Peking, and, from the capital, an unconditional edict ought to issue decreeing what should and what should not be done. China is in the rear-guard of nations and it is mainly because the functions of her government, although in theory centralized with so much exactness, are in practice scattered and undirected.

CHAPTER X

BUSINESS CUSTOMS

FROM the earliest ages the Chinese have been pre-eminently a trading people. Their acuteness and sagacity were not surpassed by that of any contemporary nations.

In the thirteenth century, while western nations were steeped in mediævalism and internecine strife, the Chinese, under their Mongol suzerain lords, carried on a valuable trade both on land and sea. Vast fleets of merchantmen vended the products of Chinese art, industry, and inventiveness in the regions bordering on the east and south coasts of Asia, from the ice-bound limits north of what is now known as the Premorsk to the African shores of the Red Sea. The large and small islands of the adjacent waters proved excellent markets for Chinese sea-borne wares long before the days of Vasco da Gama.

Prior to this period, when the mastery of the eastern seas was held by China for the purpose of conducting her external trade, the Romans, in 166 A.D., considered it to their interest to open up business relations with China, and sent an ambassadorial mission for that purpose. These intrepid warrior-merchants dared all the fatigues and dangers, associated in those days with travel by land and sea, to facilitate the purchase of the marketable wares produced in China.

This mission, which seemingly entered China from the south, somewhere near Canton, seems to have been for the time a failure from a trade point of view, but less

than a century later, through the agency of Persian and Parthian merchants, Chinese goods, such as pearls, precious stones, and the finest of silk and cotton fabrics, were disposed of in the City of the Western Seas (Rome) at very high prices.

The great Greek merchant monk, Cosmas, hands down from the middle of the sixth century of the present era records of the maritime trade of China at the time of the Byzantine Empire. The Moslem power seems to have been the means of destroying the commercial intercourse between the two greatest of the early commercial Empires, Greece and China.

The principal articles concerning which one can find any authentic information, and which indicate the nature of such business relations, are the potteries and porcelains, which, found in Rome and other cities, display the handicraft of the Chinese; but there are some who consider that many of the gold ornaments discovered in Italy have a Chinese origin, as the gold contained is of similar colour to that found native in China, and the designs are certainly Chinese. Arab merchants, in the eighth and ninth centuries, undoubtedly learned many of their designs in gold work from the Chinese, the style being quite distinct from the early Egyptian. The records left by the Arabs give most authentic and detailed accounts of the great trade done by China and the methods pursued by Chinese merchants, as well as the class, value, and quality of goods generally produced. The introduction of Mohammedanism was due to the Arab traders who, originally coming to China for commerce, formed a settlement near Hangchow Bay and were killed during a rising or became absorbed in the race.

The overland trade of China, as well as the sea-borne traffic, was, in the early part of the thirteenth century, of

such magnitude that it attracted the attention of all the known writers and travellers of the Middle Ages; and, thanks to them, one has information which could never be obtained from Chinese sources, owing to the Chinese custom of withholding or destroying it. Great as the external trade undoubtedly was and continues to be, it was and is nothing in comparison with the internal or domestic commerce of the Empire. Such trade could not be conducted on the "happy-go-lucky" principles permeating the ordinary and everyday life of the natives of China; accordingly commerce evolved business principles and business instincts surpassing in method and enterprise even those of the Jews.

China possesses no school of commerce except that of experience, and, from early boyhood, those intended for a business life have to devote a number of hours each day to the trade or work which is to be their future calling; but such training is not given at the expense of literary education, it is in addition thereto. These youthful apprentices seldom during their apprenticeship — except, perhaps, at the close thereof — really assist in the running of the business, but simply watch and instinctively absorb the system adopted by their superiors or masters. To this may be attributed the fact that for so many years China has, in business matters and methods, been so ultra-conservative. There is nothing to encourage the initiation of new ideas amongst the young. All dealings, in the past and at the present day, were and are regulated by precedents, locally called "*ollo* custom"; the chief and most far-reaching in effect of all these customs being the employment of a "*fostook*" or go-between, a character who enters into every possible phase of life in China.

It is often said that the Chinese are not over-scrupulous in their business dealings amongst themselves or with for-

eigners. This, however, as a generalization, is a mistake, chiefly owing to the fact that the foreign merchant is so keen on his own business and the putting through of the same. He is further handicapped by the idea that it is only waste of time to study the Chinaman, his language, manners, and customs, regardless of the fact that there is no other way to understand a Chinaman's ideas, methods, and requirements; and, accordingly, everything is left to the *fostook*, who occasionally brings about misunderstandings, the Chinese merchant, in consequence, being dubbed unscrupulous. At business and at the securing of the best bargains the Chinese merchant is a much keener man than many a foreign merchant with whom he deals directly or indirectly. If the Chinese merchant be caught practising methods not altogether moral in business, he stands to lose "good chances" in future deals, and therefore self-interest, if no higher motive, induces him to keep his word when once given. As an illustration of the correct dealing of the Chinese, should an authoritative and properly drawn-up agreement be arranged between any one and a Chinese merchant, by which the latter borrows a sum of money, large or small, promising to repay the same, with a definite rate of interest, this day five or ten years, at a definite hour, that money is already as good as returned at the precise time and date, even if the borrower should be dead. This comes about through the two great ruling principles of Chinese daily life, — face and filial piety (misnamed ancestor-worship), combined with the responsibility of the unit. That is to say, the children and relatives are as responsible for the fulfilment of a properly drawn-up contract as would be the original signer; otherwise the latter would lose face or prestige in the next world, and the immediate successors and the subsequent generations would also

come in for loss of prestige. Such is the theory; but occasionally the love of money here is stronger than the fear of the hereafter. From the foregoing it may be understood that, when a bargain is concluded, the Chinese thoroughly appreciate the necessity for the fulfilment of their obligations; and this is one of the chief reasons why the commerce of China, and "open doors" thereto, has been made a ruling diplomatic subject.

The foreign merchant is generally sure that as soon as the Chinese merchant takes delivery of the goods shipped on his account, so soon will the equivalent therefor be placed in the hands of the trader or shipper.

Sometimes with regard to payment for goods ordered on his account the Chinese merchant cannot restrain his natural commercial instinct or love of bargaining, and every possible argument may be advanced to prove why payment should be deferred and the delivery postponed. Such contentions, however, arise out of circumstances unforeseen when the bargain was originally struck, such as a narrowing of the market demand for the particular goods ordered, or an unprecedented fluctuation in the rate of exchange, by which, if the merchant accepted delivery and met his obligations, he would be, to all intents and purposes, ruined. Face would compel him to fulfil his contract, even to his ruin; but the foreign merchant or shipper, if enlightened in things Chinese, will not press hard under such circumstances, and his leniency is generally rewarded by increased business with that customer, who also introduces further business amongst his merchant friends when the conditions of the times improve.

From this it will be seen that the chicanery, attributed by some to the Chinese merchant in his business relations, is more in seeming than in reality. The trade of China and the trading instincts of the Chinese, combined with the

business principles on which this trade is conducted, would seem to justify the Chinese contention that their country is in a forward state of development when compared with any and all other countries. In no other country is the constitution of trade founded on such simple lines as those which facilitate the interchange of commodities in China, and, despite this simplicity, nothing is forgotten which would tend toward the protection of producer and consumer. This is brought about by the system of trade-unions and guilds. The truth regarding the forward condition of the more simple commercial undertakings in China must strike all those who have had an opportunity of seeing and carefully noting the enormous volume of internal trade, and the facility with which internal traffic is handled, notwithstanding the lack of railways and such means of rapid transit as are now, fortunately, being pushed rapidly forward through foreign enterprise and through the political influence being brought to bear at Peking.

The transit facilities offered by the vast natural waterways and the numerous artificial canals and creeks are utilized in such a simple and businesslike manner that enormous quantities of goods for local or internal consumption are transported with the greatest ease and methodical preciseness by densely laden native craft, by the aid of a vast amount of the cheapest labour in the world procured from amongst the coolie or working class. The business instincts of the Chinese tell them that, when time is no object, heavily laden sailing craft are more economical means of transport than fast-going steamers, and it also tells him that water transit is always more economical than land transportation. Water transport is the usual carrying medium in the coast regions, and over the districts intersected by the natural waterways, canals,

and creeks of south and mid China; where, however, these do not exist, as in the hill country, and far in the interior to the southwest, west, and north, other means of transport are adopted according to the prevailing local conditions.

As the coolie is the cheapest and most docile carrier of burdens, strong and able to live on little, taking up little space and requiring no comforts, his tissues and endurance are utilized to the fullest extent, under varying conditions and methods appropriate to those conditions for effectually transporting the major volume of internal trade. The single man with a bamboo pole and goods in various-shaped baskets slung at each end gives place on occasion to the bamboo carried by two coolies suspending the weight of goods between them. For heavy weights a large number of bearers grouped in pairs will suspend the article in transit from the centre of a number of these bamboo poles. Passing from this stage, one gets the wheelbarrows of different descriptions, so intimately associated with the name of China and the Chinese. There may be seen, according to the bulk and weight of the articles to be wheeled, one man shoving the barrow without assistance, or the wheeler assisted by varying numbers of pullers with ropes attached to the front bar of the barrow. It is extraordinary the quantity of goods that can be transported in a single day, to great distances, by this seemingly primitive method. To the wheelbarrow may be added the single-man handcart with two wheels, where the man is again assisted by a number of pullers. It is obvious that both the wheelbarrow and handcart methods of transport can only be adopted in a fairly level country for the transport of heavy goods. Another method is the pack-mule, pack-donkey, or pack-pony, and the methods adopted for the packing greatly vary in different districts. Some

simply use a very primitive pack-saddle made of young sapling ash or oak, bent into the required shape by steaming it and then drawing the ends in toward each other and tying them as required. These U-shaped crosspieces are kept at the required distance by transverse strips attached thereto, and these latter act as the guys to which the roping is attached. The pack-saddle is lifted on a saddle-piece made of solid wood shaped to the form of the animal's back, and lined on the inside with straw covered with cotton or cloth. In other places the pack-saddles have attached to them oval-shaped baskets two feet to two feet six inches in depth, and two feet in greatest length, and from a foot to eighteen inches in greatest width. In these baskets are packed all the smaller commodities, while those of larger bulk are stretched athwart the animal, and rest on top of the baskets so as to equalize the weight. In the regions round about Peking, in Shansi, Shensi, Kansu, and from the Great Wall in to that expanse of country stretching to the north through Mongolia, and northeast through Manchuria, the cart is found; some carts drawn by a single pony, mule, or donkey, some covered carts, known as Peking carts, others open. Then is seen the same cart with animals driven tandem, or in teams varying in number in accordance with the extent of the burdens or the difficulties of the road. Sometimes in these teams one may see ponies, mules, donkeys, and oxen used indiscriminately to pull the one cart. When going up mountain passes, the carters assist the animals by levering on the wheels, but the spectacle of a caravan climbing a pass or steep mountain highroad is nothing to that witnessed when the descent is being made. According to the steepness of the road, one, two, or more animals are unyoked and brought to the rear of the cart, where ropes are attached to the shoulder collars, which are thus dragged up

toward and grip the head behind the ears. The animal is made to sit back on its haunches, and is dragged forward by the rope, and of course tries to back away from such treatment, and in this manner is improvised a primitive but effective brake, preventing the cart from too rapidly descending the steep road.

From Chili northward, northwest, and northeast, the camel is made great use of, the droves varying from half a dozen to thirty animals according to the resources of the owner. In Peking large droves of these ungainly but useful beasts of burden may be seen bearing large baskets of an excellent anthracite coal brought in from the "Western Hills."

I have dwelt at some length on the primitive methods of transit suitable to and utilized by the Chinese. Transport is conducted as a regular business in each province and district, there being actual carrying companies with large vested interests in the business of transit, that for the sake of these vested interests oppose most strenuously all foreign innovations, such as railway enterprises, which they imagine will reduce their profits.

These carrying interests were a great factor in giving the Boxer movement of 1900 its anti-foreign tendency in the north of China, as that was the portion of the country most affected at the time by railways, which had not then begun to increase subsidiary traffic, but had absorbed that usually carried by carts or similar means.

All methods for facilitating transit have such a direct bearing upon the business relations and enterprises of a country that some knowledge of local conditions is necessary in order to understand the reasons why the already vast trade is not vaster.

It may be taken as a general rule that junk transport costs the shipper 2 to 4 cents (Mexican) per ton mile; by

creek boat, towed, 4 cents per ton mile; by hand-propelled creek or shallow-draft sailing boats, 3 cents per ton mile; by coolie carrier, 20 to 30 cents per ton mile; by wheelbarrow, 15 to 20 cents per ton mile; by handcart with single coolie, 12 to 15 cents per ton mile; by handcarts with pullers, 12 to 15 cents per ton mile; by pack-donkey, 15 cents per ton mile; by pack-mule, 8 cents per ton mile; by pack-pony, 10 cents per ton mile; by large cart, 5 to 8 cents per ton mile; by camel caravan, 10 cents per ton mile.

The small boats on creeks carry seldom less than 1½ tons; coolie carriers can bear 240 pounds for short distances; pack-animals vary, they carry from 150 to 224 pounds depending on the animals and the condition of the roads or paths of the country. I have sometimes seen as much as 350 pounds in weight packed on the large and sturdy mules. Peking carts, with single animals, usually carry about 800 to 900 pounds, but over half this amount may be added for each additional animal until the bulk capacity of the cart is reached. The large muleteer carts of Mongolia and Manchuria, sometimes seen in Chili, have an average capacity for 1½ to 2 tons. The camel of north China usually transports 600 to 800 pounds.

As much as one ton is packed on the wheelbarrows in the regions round Peking, but in such cases the pulling is not done by men, but by two donkeys, one mule, or one Chinese pony, and even by bullocks, and the man between the handles has an ingenious method of balancing the barrow with a strap over the shoulders, the ends of which loop on to the handles, thereby taking the great strain off the arms and hands.

The essential principle of trade, that of buying in the cheapest market and selling in the dearest, is ingrained in

the mind of the Chinese to a point of fineness perhaps beyond the skill of western merchants; but in some cases this is considerably modified amongst this conservative democratic community, and in particular is this the case in the power exercised upon a trader by an old and well-established name of a firm, an old and familiar "chop" or recognized trade-mark or brand on goods. The power of the chop and of the old firm is, however, slowly disappearing from progressive trade in China, as is witnessed by the fact that the long-established trade in Manchester piece-goods such as drills, jeans, and sheetings, is gradually giving way to the trade in similar products from the United States.

Other things being equal, the Chinese are usually guided by cheapness, and that term "cheapness" has become the all-alluring chop to fascinate the commercial instincts of all classes of native merchants in the Empire. The Chinese can always find a use for commodities that are brought within their scope by cheapness. One often hears the term in China, "My no can use, my no savey so fashion," but, on probing for information, one will find that the commodity can be used by the Chinese, but it is too dear, and the Chinese does not like to say so, lest he should lose face.

Pay-days. — It is usual for foreigners to settle all accounts at the end of each month, but the native merchant seldom does this when trading with his own countrymen. With them there are three pay-days in the year, and these days are not identical in each province, except the great settling day of the Chinese New Year, when much is pawned or mortgaged, and when many valuable articles may be procured at a fraction of their cost because the one pressed for money must meet all calls upon him. Under this long credit, or three pay-days' system, the native

broking merchant may lie out of his goods' equivalent for five, six, or even seven months, although in the treaty port he has met his own obligations, within five days of taking delivery of foreign goods. Up-country accounts pass over the next pay-day, and are only balanced on the second pay-day. If, therefore, the goods are delivered to an up-country trader one day before a pay-day, the vendor has only to wait four months and a day for his equivalent; but if the same goods be delivered one day after pay-day, he cannot be reimbursed before one day short of eight months. This system, therefore, of long credits tends to nullify the general business idea of obtaining profits by rapid turnover, and must hurt trade generally.

Although the purchasing retailer up country cannot be called upon to make payments, except as above stated, he has the option of paying in full or in part his account before the appointed date. If he should so elect, then he is entitled to interest at the rate of one and one-fifth per cent *per mensem* on the amount paid in, for the balance of the term of account. This is a hard and fast regulation, emanating from the "Piece-Goods Guild," and recognized not only by all engaged in that trade, but by other trades and trade-unions as well.

Ready-money sales on a large scale are, to all intents and purposes, unknown to the Chinese merchants, except in sales over the counter in retail transactions.

Payments as a rule are made in goods of native or local production plus a cash balance, where *gombeenmen* or middlemen are the actual travelling merchants. And in this way both the up-country and down-country journeys are made to yield their profits. When, however, it is a particular kind of merchant, engaged in a particular line of goods, who is the vendor, and he has no interest in

bringing goods to the coast, then payments by native letters of credit or hard *sycee* are made. The former may be arranged through native banks or between native merchants whose good names are generally known far and wide throughout the country, and for this amongst other reasons their letters of credit are accepted freely, even by foreign travellers going on long journeys in the interior. So-called "shoes" of *sycee* are nothing but ingots of silver varying in weight and fineness; the weight called "tael," or Chinese ounce, varies considerably in different provinces, thus enabling the bankers to secure a squeeze or illegitimate interest. For instance, 1000 *yuping* taels are only the equivalent of 999½ *huoping* taels (or goods balance taels).

Second quality silver *laopiaotsuse* is the medium for payment in foreign miscellaneous goods transactions, but is paid as an equivalent worth on the *huoping* balance.

Fostooks or Go-betweens. — As the Chinaman dearly loves bargaining and will spend hours, days, weeks, months, even years, in the preliminaries of a contract over which a westerner would not think of wasting five minutes, it becomes necessary that some one, who can spare time and knows the heckling arts to a nicety, should be employed to do the hard talking and wasting of time, so that the principals may be left to carry on their ordinary vocations. This individual is the go-between (*chiu ch'ie*, or *meau jen*) and acts the part of the *fostook* in countries in which marriages also are arranged by third parties.

The *fostook* or go-between is one of the most important personages in transactions in China which have a business aspect of any kind, and he must not be confounded with the *gombeenman* or middleman trader. As his name implies, his occupation is that of *fostooking*, *i.e.* seeking

where the best bargains can be arranged for him who wishes to dispose of any particular commodity, and for him who wishes to secure the same. He is the commercial traveller, or travelling agent, for him who wishes to sell and for him who wishes to buy. He has numerous patrons of both classes, and his position from a commercial standpoint is a very important one for foreign merchants and agents to consider. So strong indeed has his position become in the up-country trade of China that the go-betweens have formed a trade-union of their own, and their demands and regulations must be considered by all classes of native trader, if not by officials. Of course there are *fostooks* of different classes, but it is only the mercantile bargainers who have as yet formed themselves into a union.

Some writers have given the go-between the position of a trading middleman, but such a definition is very far from defining his calling. He is, of course, a commission agent, but his commission depends on a definite rate of interest arranged with his patrons and only payable, should his negotiations end in a successful carrying through of a business deal, whereas the *gombeenman* may buy the goods and hawk them, until a purchaser is secured at a rate which the former considers will remunerate him for his outlay and trouble. As a rule the *gombeenman* knows his market before he makes a purchase, but at the same time there is a good deal of risk in this calling, whereas the *fostook* only risks his many fares while travelling to fix a bargain. The *gombeenman* attends auctions in the foreign settlements of the treaty ports, and thus buys goods very much under their local market value and vends them up country as direct purchases from the producers' agents in the treaty ports.

The go-between generally starts his special calling in

fixing bargains between friends, and when he has accumulated sufficient capital to cover travelling expenses, he broadens his field of labour, by which time he, like the broker and stock-jobber in countries endowed with western civilization, is supposed to have at his command all information regarding the particular goods with which he deals.

He does not appear directly in ordinary retail business carried on between his friend the retailer and the public customer. Whenever the transaction is one on credit account, the *fostook* is called in by his friend to supply information regarding the financial soundness of the purchaser.

It may be taken as a general rule that the *fostook* confines himself to one particular line of goods, concerning which he soon acquires an expert opinion. Sometimes, however, if his journeyings carry him far afield, he becomes a canvasser for the vending of one class of up-country products and one class of down-country commodities.

As before mentioned, the *fostooks* work on commission, which is generally secured from the seller, but often a *cumshaw* is paid by the purchasing side, if he considers an advantageous bargain has been struck from his, the purchaser's, point of view; the commission is the first thing arranged, and it varies from two and one-half to five and one-half per cent, according to the distance separating the buying and selling markets and the difficulties of travel.

The go-between is in fact commission agent or commercial traveller and acts the part of the advertising columns of foreign press mediums, since he too always has first-hand information, relative to time and place of landing of the particular goods with which he is directly con-

cerned, the place where they may be purchased, and that where they may be ultimately marketed. As they depend entirely for income upon the result of putting through a deal, they are as a class undoubtedly the keenest business men in China, and their opinion, if obtainable, is always worth having. Although familiar with their known abilities, foreigners have directly utilized this class of Chinese very little for pushing new wares into the interior, and this is mainly owing to the fact that their occupation and trade status is altogether misunderstood by western merchants and manufacturers.

Of course both sides are liable to be duped by the *fostook* as to the quality of the goods to be vended on the one side, and as to the credit and financial ability of the purchasing merchant on the other; but, as such malpractice can only yield temporary gain, the far-seeing instinct of the *fostook* doing a large trade, keeps him straight through self-interest, if through no higher motive.

Doolittle, in this connection, says: "The go-between, by coming to a private understanding with the buyer, is able sometimes, by dint of plausible prevarication or downright lying, to make more money for himself than the sum to which his regular commission or percentage would amount." This statement would undoubtedly be true in cases of isolated bargains, but where transactions can be looked upon in the light of commercial business, then the risk of losing face and ultimate profits on continuous bargains, tends to legitimate practice on the part of the go-between where the commission agreed upon is the only remuneration.

Doolittle, in condemning the *fostook* or go-between system, advances the argument, amounting to a general assertion, that "the buyer is particularly liable to be duped by the go-between through the complicity of the seller,

provided the go-between thinks he can practise the deception without the probability of detection," but he immediately gives a reason militating against the general practice of such deception, in the following words: "A regard to their reputation and the prospect of future employment by the principals, doubtless, often has a great restraining influence over the middlemen who are tempted to dupe and defraud."

From his mixing up the position of the middleman (a trader) and the go-between (an arranger of bargains), it is evident that Doolittle did not pay the attention to the customs and practice of these people which he generally bestowed on subjects of commercial and general interest in China.

At the present time the foreign principal and the native principal seldom or never come in contact in connection with a commercial transaction, all negotiations being carried on by the chief *fostook* of the foreigner, dignified by the name of *compradore*, and his satellites of the one part, and the *fostook*, or commercial traveller or bargainer, of the native merchant of the other part.

The worst feature of the *fostook* system is that the native or foreign importer is absolutely under the thumb of the "associated go-betweens" who in reality form nothing more nor less than a commercial travellers' union, so powerful in organization that its members can bring influence to bear on provincial officials to oppose the opening up of further treaty towns. They are quite aware that the more this class of towns is opened up the less will become their influence in arranging bargains at a distance, and this is at present their most remunerative employment.

The importers must directly or indirectly concede the demands made by the associated go-betweens, otherwise it

would be rendered more difficult for them to secure a market for their wares at any reasonable profit. That is not always apparent to foreign merchants, owing to the roundabout methods adopted by the Chinese in all dealings and transactions.

By the law of custom the go-between is held responsible for any trouble that may ensue out of a bargain transacted through him, but — and this is unusual in China — responsibility is closed with the grave. If his responsibilities are heavy and almost ceaseless, the *footook* finds compensation in the power he wields for developing or crippling the trade of both foreigners and natives in China.

Trade Exclusion. — In business and commercial matters foreign traders and merchants have themselves to blame to a considerable degree for the *impasse* at which matters regarding export and import trade have arrived. The European as a trader is undoubtedly distrusted, though in the case of the Anglo-Saxon race this distrust is not so plain. The methods pursued by the early Portuguese traders, and later by the Dutch, were anything but creditable to the citizens of their countries, and contribute to the contempt which the Chinese displays for the European. Referring to the effect of this conduct Sir John Davis says: "To this day the character of the European is represented as that of a race of men intent alone on the gains of commercial traffic and regardless altogether of the means of attainment. Struck by the perpetual hostilities which existed among these foreign adventurers, assimilated in other respects by close resemblance in their costumes and manners, the government of the country became disposed to treat them with a degree of jealousy and exclusion which it had not deemed necessary to be exercised toward the more peaceable and well-

ordered Arabs, their predecessors." It may not be over-flattering to Europeans to be compared with Arabs, and if European conduct was on a lower grade than that of the Arab, there must be some justification for the policy of exclusion and anti-foreignism pursued by the Chinese from the government downward. At the same time the benefits of exclusion fade completely before the injury to such a business community as the Chinese in their most vital spot, namely, the mutual exchange market on which the commercial life of a nation depends.

It was the present Manchu dynasty which inaugurated the policy of exclusion, and it is the same governing body which is responsible for the continuation of antagonism to the introduction of foreign goods and foreign ideas. One reason advanced in explanation of this narrow-minded policy is that of self-preservation. The Manchus are afraid that one or another of the foreign nations may, through the name of trade expansion, gain by this subterfuge the complete mastery over China, just as the present dynasty secured the dragon throne for itself through pretending to put down anarchy on behalf of the weak ruler who then occupied that throne.

A just appreciation of Chinese ideas and susceptibilities in business dealings may go a long way to combat the policy of exclusion, and establish commerce on a friendly and business footing, thereby nullifying what might be termed the existing armed truce and *régime* of mutual suspicion.

Many of the crimes attributed to the Portuguese, which resulted in the birth of anti-foreign feeling and exclusion, were really perpetrated by the half-caste children of the early Portuguese settlers. To these Eurasians' habit of raiding, in large parties, the neighbouring villages and seizing the women and virgins whom they carried to

their homes, may be attributed the anti-foreign flame of 1545, which consumed eight hundred Portuguese and over ten thousand native Christians associated with the Portuguese and their half-caste progeny.

Neither the central government, nor the provincial governments, can continually oppose the will of the people once combined for a certain purpose, although such governments may succeed in diverting the path of any movement and thereby minimize the effect. What is true in general is true in trade, and if the Chinese should be conciliated by those intending to transact business with them, the door of exclusion would soon be battered down.

Exclusion does not affect the foreign trader alone, but is inter-provincial if not inter-prefectural in effect. If an intelligent Chinese conceives an idea of starting some new industry in a province to which he actually has no blood tie, he is unable to get a footing until he has conciliated local prejudices by interesting some of the natives of the district in the shares and possible profits of his enterprise. If this can occur amongst the Chinese themselves, what chance has the foreigner who does not know it is worth his while to win local prejudice or opinion to his side by interesting local natives of influence in his undertaking? The engagement of local *compradores* is not enough to break down the barrier of local exclusion, and until foreigners understand this, the policy of exclusion will continue. The foreign trader first thinks of the risk and of the amount he stands to lose on a transaction, but the first thought of the Chinese is, "What is this going to be worth to me?" When he sees a factory going up, for any purpose whatsoever, he says, "How much am I going to get out of this?" If nothing, then the foreigner or the native from other districts must be excluded by fair means or foul. All foreigners who wish to succeed in China

must learn to "maintain the local interest"; they must graft their new-fangled ideas on the ancient Chinese customs.

Trade-unions. — Trade-unions were a natural outcome of loan clubs or loan associations, as the latter taught the Chinese the power wielded by combinations. Unions or associations are generally grouped under the term "*hwui*," or "*hui*," the special trade or calling being prefixed thereto.

Such unions are not so much for the purpose of minimizing output and crippling employers as for regulating conditions and prohibiting oppression. Masters and men frequently belong to the same trade-union, and by so doing minimize the chances of aggression which might tend to the injury of the interests of either master or servants. They will combine to boycott a newcomer in the same class of trade if he should come from another district or province, and more particularly if the newcomer be the citizen of a foreign nation. If, however, the local interest is maintained by strong local officials, gentry or merchants being induced to take part, then these unions assist the new venture and newcomer.

A striking incident in this connection was the starting of the bean-oil and bean-cake mills at Newchwang, where the Cantonese, understanding the customs of their own country, were enabled to initiate and establish this remunerative industry by encouraging local Chinese and local Manchus to take a monetary interest in the undertakings. As a set-off against their success, take another incident: a certain foreign firm of shippers and agents tried to establish a mill on modern principles, and all figures concerning it went to prove its ultimate financial success; no local interests were, however, considered worth conciliating, and what was really established was not a suc-

cessful oil mill, but a successful boycott by the bean-cake workers' union.

Another incident was that of a canning establishment at Chinkiang, where no local interests were taken into consideration, and as game, canned or fresh, is relished by the wealthy and official Chinese, this business, from figures regarding possible and probable consumers, should have showed a very rosy complexion; but what was the result? With no local interest considered, the local markets were barred to the products, and the materials for canning were sold at a price far higher than need have been paid had local sentiment been softened in a Chinese way. Needless to say, the company is not now canning at Chinkiang. Such incidents will necessarily besmirch with failure the page of foreign enterprise in China, until the foreigners engaged in commerce and industrial enterprise within the Empire cease to think in an insular manner of commercial matters and study the requirements and characteristics of the Empire — the greatest commercial and business community in the world.

All persons engaged in one class of business are obliged, not by law but by custom, to join the union of that special trade and be subject to all its regulations. Should a newcomer on starting business fail to enter, or refuse to pay forfeit for violations of the union's rules, he would be hampered in all his transactions in many directions. The special union would communicate with the employees' union, and the newcomer would find himself faced with the petty annoyance of his shop-hands or workmen leaving him one by one just as they were getting into the run of the business, and to save himself from ruin he would have to join the union. The various journeymen, tailors, wheelwrights, carpenters, boatmen, carters, etc., all combine in their separate trade-unions to fix the price of

labour, etc. This is particularly felt in the building trades of the treaty ports and foreign settlements, as the labourers work hand in hand with the building materials merchant and thereby keep up the cost of building. This is to their personal advantage, as they are paid very much according to the class of architecture and the materials used in construction.

The traveller in China, if he understands Chinese, is generally struck by the uniformity in the prices prevailing throughout a town or even a district. The cost of certain commodities is just the same in a large general store as in a small trader's shop, but the explanation is simple enough, since all prices are fixed by the local union, and all traders in the same class of goods must belong to the union. Another thing which puzzles the stranger is that, when trying to bargain in a native shop, he is met by a stolid refusal, but that after dark some one quietly goes to his residence or temporary location and sends in the article, asking the price offered by the would-be purchaser. The reason for this is that when a stranger goes to any shop or warehouse in any part of China, he or she is usually followed by a gang of idlers, whose only business, it would seem, is to satisfy at any cost their extraordinary faculty for idle curiosity. Where there are so many listeners, there are bound to be a number of talkers and tale-bearers, and the price he or she offers for the goods and the price he or she pays for them is straightway disclosed to the other members of the same union. If the trader should have squeezed a high price from the stranger, he is considered to be a good man of business by his trade fraternity; but if he sell below the agreed-upon price of the union, then he sees looming before him seats at the theatre for all members of the union, or a dinner at the best restaurant in the town; in either case all

the expenses coming from his exchequer. His anxiety to sell, however, makes him risk the rules of the union when, after dark, there is little chance of his being found out as, should the goods be detected on the way to your house, all he has to say is that he is trying to induce your servant to obtain a fair price from you.

In many trades the prices of articles or labour, fixed by the unions, are either written or printed, and then posted in the various shops or workshops coming under the control of the special union, and the head of the shop or workshop can always refer to them when pressed to reduce his price.

At stated intervals, generally every three or four months, all interested in a union meet together in some restaurant, temple, or theatre and discuss all matters relating to their business and alter their rules if change be found necessary. At the meetings there is always a feast, the expenses of which, together with those of devotions to a particular god or goddess interested in their special trade, and of attendance at a theatrical performance, are defrayed out of the pooled fines of such as have broken the rules of the union; and if these are not sufficient to meet the calls, then the funds from members' subscriptions defray the balance. Each trade-union has its committee and executive officers, who keep a tally of all information that is likely to affect the special trade, and when matters of sufficient importance arise, special general meetings are called at which the committee are instructed how to act and what public notices to issue. Sometimes the executive officers of three or four unions meet to discuss matters which may affect directly the collective interests of all, after which a special general meeting is called of each union, and the result of the general executive consultation laid before the various members of each union for approval, etc.

From the very fact that proprietors, foremen, and workmen, engaged in a particular line of business, all belong to the one union, the effect must naturally be a benefiting of that trade, and a tendency to minimize the possibility of disputes between capital and labour, so common in western countries; and as a final result, there is very little chance of the dislocation of general trade through such agencies as strikes, except in places where the natives have absorbed into their system the worst traits of the westerners. An instance of this was given in the great wheelbarrow strike and riot in Shanghai. Had, however, any of the municipal council's employees, understanding Chinese, belonged to the wheelbarrow union as "master members," then the strike would have been minimized in effect, if not smoothed over on an amicable understanding.

Business Associations. — For centuries, in business as in all other phases of life, the Chinese have taken the lead in what in the twentieth century are called "combines." These combines, though of simpler organization, are as efficacious in the commercial life of China as are the "trusts" in that of western nations. They are not dignified by the high-sounding name of "trust," but are rather simply known as *hwui* or "associations," and it is the ambition of every man, woman, or child to be interested in one or other of these associations.

One of the most important of these associations is the "money loan association." These money loan associations are not friendly societies, but friendly clubs, where mutual help is the predominating factor which counteracts the tendency to consider interest on every possible occasion. These clubs are usually formed of a limited number of friends and relatives of a Chinese who has got into temporary money difficulties, or requires the immediate use of a definite amount of money, not immediately at his

command, in order to put through a good piece of business, without having to pay any interest on the money borrowed.

The membership of the club depends, first, on the sum of money required by the borrower, and secondly, on the resources of his associates. If, for instance, the borrower desires the immediate use of a clear $1000, and his friends can afford to put up $100 each, then the membership would be of eleven associates, but if they can only put up $25 each, then the membership will be of forty-one associates. Forty members would apparently put up the required $1000 in $25 shares, but this would not be the case in reality, as the borrower wants the immediate use of a clear $1000, and he does not himself subscribe at all at the first drawing. Therefore there must always be the extra man to make the sum a clear round amount. The man in immediate need of funds notifies his friends that he is about to start a loan association, and gives the capitalization of the shares he wishes to issue, and the number thereof. If the friend accepts the membership offered him, he is presented with a pass-book containing all details of the association, capital, number of members, amounts and dates of payments, drawings, etc. A book of the same class, but on a more detailed scale, is retained by the organizing borrower, who is *de facto* the head or chairman of the association, and in his book a complete page is devoted to the account of each member, as well as a page to each meeting of the association and the business conducted thereat.

So universal are money-lending associations of every class that paper merchants consider it worth their while to keep large stocks of account-books suitable for any and all such classes of borrowings. They have a yellow cover, with space in the middle for filling in the

date underneath. which is printed, "Started on the lucky day," a space being left for filling in the name of this day, while at the left-hand side is marked off, with red lines, a space for filling in the name of the associated member. The books begin with the printed regulations of each particular case according to the particular class or amount of loan, and, with the statement of its origin, leaving thereafter space for inserting any particular rule agreed upon between the associates. These spaces are cancelled or filled in at the conclusion of the first meeting.

The loan associations usually hold their meetings once every moon or Chinese month, but sometimes they only hold them on the lucky days occurring every four moons. Big borrowers generally arrange for annual meetings, while amongst the poorer classes, or "cash" loan associations, the meetings are generally weekly or fortnightly.

The originator or chairman of the association, being the one in immediate want of funds, draws the full amount of the subscriptions collected at the first meeting, which, he arranges, shall meet the actual sum he immediately requires. At subsequent meetings each or any of the members has the right of drawing or borrowing, provided he has not previously drawn from the association. There are three methods by which such drawings can be arranged: (1) by seniority; (2) by lottery; (3) by bidding for the right. This latter is the most popular and most convenient to the members, as it enables the one most in need of funds to outbid his associates. And this, though the loans are supposed to be without interest, actually gives such a return, small though it may be.

The bidder does not actually hand over the hard cash of his bid, and the bidding is not conducted like an auction, but each one puts a written statement of his bid in an envelope, and these envelopes are opened by the

chairman, who announces the name of the highest bidder and the amount of the bid. As previously indicated, the originator need not bid, and if the agreed loan is $1000, he receives the full amount then; if there are eleven members, ten have each to pay in his $100. At the second meeting, should the highest bid on paper be $5, then, though the successful bidder is responsible for the return of $1000 in ten instalments of $100 each, he only receives $995, the $5 being equally divided as a reduction in the amount to be subscribed by each. The same system is practised at each of the subsequent drawings. If $5 is the bid at each of the subsequent meetings, except the last where the drawer has no one to bid against but himself, he, the last drawer, has to pay, in all, the first drawing of $100, and nine drawings of $99.50, or, in all, $995.50 for a borrowed $1000.

It simplifies the whole seemingly intricate system if one considers that each member, except the head, lends to every one else, and all, including the head, borrow from the other members. The uses of such clubs will be fully appreciated when once the benefits they confer on some one hard up or pressed for money, who would be too proud to ask or receive a loan from a friend, are thoroughly understood. Many friends and relations may be relied upon for such club assistance who would think any other form of loan a degrading charity. These loan clubs or *Ye Hwui* must not be confounded with mercantile associations or capitalists' associations.

The capitalists' associations are similar to American trusts and have held sway in China since the Mongol dynasty. They are evidently an outcome of early similar associations formed amongst the ancient Mongolian princes to develop their separate and mutual interests while sharing the risks. In Mongolia all the peasants owe vas-

salage in a greater or less degree to these more or less powerful princes. The vassalage is generally taken out in service or labour, and all the labour or service capital, so to speak, is associated under each prince. When any particular work or fighting had or has to be done by a prince, then the friendly neighbouring princes coöperate with him, until the work in hand is completed, and he in turn gives his assistance to each of the other princes in the association as required. In this way this capitalists' association works like the *Ye Hwui*, and enables each prince to call for labour as his crops ripen or require planting. This kind of affiliation pays exceedingly well.

Capitalists' associations are frequently called into being by high officials when taxes fall short of the required amount, the local treasury being one party to the association, and the Peking requirements are thereby settled in bulk without pinching the local resources. These same capitalists' associations frequently found banks and large operative and coöperative undertakings in trade.

On the other hand, mercantile associations generally concentrate their attention and resources on the marketing of goods. The members are generally wealthy men, who are not usually engaged in commerce but who continually watch the general trend of supply and demand in various markets. Suddenly there is a lot of visiting between them, a dinner and the details of subscribing a large sum are arranged, and the association thus formed starts buying through its *fostook* or go-between a certain class of goods, chartering junks through another *fostook*, and finally placing such goods on a certain market, where there is a large demand. On occasions these mercantile associations are most charitable. I have witnessed occasions when famine has resulted from drought and excessive floods, and then one or another of these associations

corners the market of cereals and other produce in districts where these are plentiful, and ships them to the area of distress, there, instead of trying to sell at fabulous prices, which necessity would compel the sufferers to pay, the association frequently sacrifices the goods at a loss, though it would be considered degrading to the recipient if the goods were actually given away in charity.

When, however, single individuals send food-stuffs to the scenes of distress, they invariably take advantage of the local difficulties to benefit their purse.

To such an extent does the club system go that one can see, all over China, poor farmers clubbing their meagre funds to buy an ox, which is to be used in turn for tilling their land or turning the millwheel. The turn is arranged by drawing lots, each member dropping out of the draw after his turn, until the animal has completed the whole circle of owners. Carrying coolies will club together to do the business for a certain district, unless they and the district are run as a business by head-men. Many are the towns in which certain classes of crippled beggars are confined by mutual agreement to one particular route. Then, the paid mourners at a funeral agree amongst themselves to form clubs for separate districts and different priced funerals. They work to a nicety, pool the funds, and, having made allowance for expense in garb for attending funerals of different classes, the balance is divided among all the male and all the female mourners. Brides-elect and those about to become mothers get up clubs to buy trousseaux.

There are money-lending clubs under other names, symbolical of the methods of receiving or paying back the amounts; but all have really the same object in view, namely, getting one's friends to put up a large sum, at a moment of financial difficulty, or when there is the chance

of putting through a profitable piece of business, provided the first borrower can lay his hands on a commanding sum of money. A few of the peculiar names of these clubs are of interest, as well as their reasons for being so called, such as : *The Snake casting its Skin Club.* As the snake casts its skin very slowly at regular intervals, it may be accurately inferred that the borrower returns his loan gradually at regular intervals. Here there are no drawings, except the one, and no pool, except the one, the members being called at regular intervals to receive gradually and singly the amount originally subscribed by each. The order of repayment at these subsequent meetings is decided by lottery in the form of dice-throwing. Another typical name for one class of these clubs is, *The Dragon-headed Club*, and as the head of the dragon is much larger in proportion than any other separate part of the body, the deduction is readily drawn that the first payment by each member is much larger than any subsequent single payment. The *Teipo Hwui* or *Spread on the Ground Association* is another, somewhat similar to the first association described, but as the head need not necessarily be the first drawer, or even a member entitled to draw, but rather a paid secretary, it will be seen that there are considerable smaller differences. The head's salary is not a definite sum per month or week, but he or she (since women are not debarred from these associations) gets as commission half of one single individual's subscription, paid to him or her by the drawer at each meeting. The lucky drawer is fixed by bidding, and the bids are marked by counters of different lengths of bamboo, each length representing so many dollars or portions of dollars according to such length. The one who has put in the greatest combined value of bamboos is the purchaser of the particular drawing.

The status of an association in China is generally recognized, and the officials punish an absconder therefrom very severely; on the other hand, the claims of money loan associations have been ruled out of court, in Hongkong, should the number of associates be, or exceed, twenty, as under the laws of the colony any collection of twenty people in money transactions must be registered as a company. In the case, however, of the associates being less than twenty in number, any proceedings coming before the court are tried on their merits.

There are interesting rulings of the court of the colony, one being that of Judge Sir James Russell; in this he found that the head of an association, in which all details were not completed according to the rules thereof, was liable to be sued for the money had.

Judge the Hon. F. Snowden defined the legal difference between the *Ye Hwui* and *Teipo Hwui* as follows: "Inasmuch as the head of the former gets the full amount of the first drawing, he is responsible for the future payments to the other members, but as the head of the *Teipo Hwui* only gets a commission on each drawing, and only puts himself or herself to the trouble of collecting, and does not make him or herself responsible for the various members paying their amounts, he or she cannot be held responsible for future payments from or to any members."

Pawnshops. — Unlike money loan associations, which are, essentially, conducted on mutual trust principles, the pawnshops of China are definite commercial undertakings and amongst the high classes of business with which a wealthy Chinese gentleman may be connected. They are recognized by the governments, both central and provincial, and are taxed and registered in their different classes, of which there are three distinctive, namely:

(1) *Tang Po Tien*, (2) *Chi Tien*, and (3) *Yah*. Numbers 1 and 2 are legitimate institutions, being registered and paying definite taxes on capital and having to fulfil certain obligations within the district, such as assisting the provincial governor, district magistrate, etc., when a sudden imperial call for revenue finds the official exchequer in light condition. A tax on the year's profits, or on goods stored, is levied, or even the collection of local taxes is pledged to the pawn-office proprietors for a certain period. This latter is a most profitable arrangement for the pawn-office proprietor, as in all cases of farmed taxes the holder has enormous chances of squeeze. Number 3 is an illegal institution and is unregistered except in the treaty ports, but has nevertheless to pay taxes, and is liable to be raided at any moment by *yamen* runners, as it is the recognized bureau for the receipt of stolen goods. Should a *yamen* runner, detective, or petty official find any stolen goods in any of these houses, he simply confiscates the property, returning it to its legitimate owner, in lieu of the customary *cumshaw* or squeeze, while the pawn-office proprietor must necessarily stand the loss. As a result goods pledged in the shops of the third class do not yield a big advance, and the period of such advance is very short before the goods are sold, varying from six weeks to six or nine months. Bundles of tickets are bought up indiscriminately by pawn-ticket merchants and retailed in the streets at the purchaser's risk, particularly in the case of third-class pawn-office tickets, as the purchaser might find on arrival at the shop that the goods connected with the ticket had already been removed by the *yamen* runners.

The power of these runners to seize pawned goods in a third-class pawn-office, without giving a voucher or compensation for the same, is frequently abused by these official hawks. Many articles which have never been

stolen at all, but please the eye or the avarice of the runners, are carried away under the pretext of restoring stolen property.

Taken generally, the laws relating to pawnshops are strict and equitable in conception, but in fulfilment there are great differences in the interpretation of the terms "strictness" and "equity." However, travesties of law and justice in relation to the pawn-office seldom occur with shops of the first or second class. An interesting indication of the legal status of pawn-offices is obtained from the following excerpt from a despatch sent by Kung (*taotai* of Shanghai) to British Consul-General Hughes (of Shanghai), and published in the minutes of the municipal council's meetings, 1888, with the whole correspondence on the subject of a foreign pawn-office established in Shanghai: "Every Chinese subject who opens a pawnshop is bound to take out a license from the Chinese government for which he pays a fee. He is also bound to receive government deposits, the interest on which is devoted to government purposes, and to pay various monthly taxes in addition.

"Owing to the large increase of late years in the number of unlicensed native pawnshops (*yah*), the legitimate business of the petitioners has already been seriously encroached upon, causing them serious loss, in addition to which, this year, in consequence of a decree from the Board of Revenue at Peking, they have had to pay the government dues for twenty years in advance. The latter call they cheerfully met in recognition of the protection they expect to obtain from the government for their trade."

In passing I might mention to those interested the fact that this incident also illustrates one of the cases of the impossibility of attempting to start anything new in China

without conciliating the local interests. This particular petition was met by an absolute refusal on the part of the council to have any foreign enterprise within the foreign limits interfered with by either Chinese tradesmen or Chinese officials. Nevertheless the foreign pawn-office, complained of in the petition, proved a failure, and had to close its portals owing to the opposition of natives interested, although at that time, 1888, there were twenty-one pawn-offices of the first and second class doing a flourishing business in the foreign settlements of Shanghai alone, and there were five times that number of *Yah* carrying on trade in the settlements and native city.

The importance of the *Tang Po Tien* and the *Chi Tien* is evidenced by the fact that they cannot refuse government deposits although they are not actually banks.

The *Tang Po Tien* owners must be responsible parties, merchants of known standing and financial ability, bankers, or even officials without substantive rank, although those holding substantive posts do engage, illegally, in such trade. The owners cannot refuse to advance money to any amount on reliable security, generally giving sixty-five to seventy-five per cent of the value of such security as the pawning limit. The security remains on deposit, until redeemed with the required interest, and cannot be sold under a period of eighteen months from date of loan, and by mutual consent the period of redemption may go on for three years. The *Tang Po Tien* do not remain open after sundown. Each director has a key to one of the numerous successive doors leading to the strong room, where valuable portable goods, such as pearls, precious stones, gold ornaments, etc., are stored, which cannot, therefore, be opened by one of their number without the consent or knowledge of the other owners. The class of goods the *Tang Po Tien* lends on are: (1) the official

pawnings of taxes and their collection previously described; (2) standing crops of all unperishable produce, such as rice, millet, corn, cotton, tea, etc.; (3) land revenues; (4) house rentals; (5) *bona fide* shop accounts, shop fittings, shop merchandise, a servant of the pawnshop being placed during the period of the pawning in the merchant's shop to see that all returns are properly noted and nothing illegally disposed of; (6) possessions of private people and officials, such as furs and other wearing apparel, personal and household ornaments, etc.

The *Chi Tien* is practically on the same legal footing with the *Tang Po Tien*, but can refuse to lend large amounts, except to central or provincial government officials. They lend to high-class customers, but only on tangible or movable security, such as merchandise, especially piece-goods, wearing apparel, and household or personal ornaments, and any articles of such character.

The trade of pawnshops is injuriously affected by all the legal restrictions regarding the sale of pawned articles, by the depreciation, or the fragile nature of the articles pawned, and by the risk of fire. The proprietor is liable for the full value of the article should it be burned by a fire having broken out in the pawnshop, and half the value if the fire originated in a neighbouring house.

From the nature of the business of a first-class or second-class pawn-office, it will be seen that the proprietors must be wealthy men, or have wealthy backing. In fact, proprietors of pawnshops are at the same time proprietors of native banks, or large grain merchants, or salt merchants, and though their separate undertakings are officially worked separately, they in reality work coöperatively and assist one another out of difficulties temporary in their nature.

This association of banks with pawn-offices enables the

latter to accept the larger government deposits, which would otherwise be too risky in bad times,—the times when the government usually finds it difficult to secure other and more remunerative places for investing the surplus of the exchequer.

A pawn-office is one of the best places to get money changed in China; standard gold will always get its full value of silver or copper cash, as the changer requires, and the money is always good, no bad or small cash being allowed within the *Tang Po Tien* or *Chi Tien*. One finds in travelling that it is most convenient to deposit money in a pawn-office and get notes or letters of credit to high-class pawn-offices in prefectural and magisterial towns in the interior, and there draw, as it is certain that every shoe of *sycee* and every copper cash obtained in this way is genuine. Further, this gives an introduction to the pawn-office owners who, as previously stated, are generally wealthy men, if not the wealthiest in the neighbourhood, and are accordingly among the best people for the traveller to meet. Frequently their large, clean, and comfortable dwelling-houses, at the rear of the pawn-office, within the same high-walled and embattled compound, are put at the disposal of a traveller as long as he remains in that town. When he leaves they will undertake the trouble of securing baggage-carts and fixing the rates at which goods are to be carried, that is to say, the daily hire of the carts required, so that one should not be unduly squeezed. By them cards and letters of introduction are given to merchants and bankers in other towns, who, in the letters, have been told to provide, as far as possible, all comforts and the information required.

The impression created by the pawn-office proprietors is that they are a highly respectable class in the community, and as business men in a business country, among the soundest.

Many of the things found in a pawn-office, such as furs and wearing apparel, are simply there for safe-keeping and storage, as all these articles must be examined by the proprietors or their staff, from time to time, to see that they are not getting damaged by dirt, damp, or moths. The staff of a pawn-office are generally well armed, one or two of their number doing duty all night, by turns, on the walls, which are high and strong and loopholed. The doors, which are thick, are further protected with well-secured, thick, wooden railings. Such precautions are necessary, because the valuable nature of the goods stored within might incite burglars and bandits to try their luck at housebreaking.

These pawnshops are generally the finest and most imposing buildings in a Chinese town, and the stranger passing through cannot fail to observe the contrast between their massive structure and the structure of other houses or mercantile shops or stores.

Bargain Money. — What is it? Nothing but the custom of the country, and as custom it must continue. Almost as important in business as the go-between, and permeating the whole structure on which Chinese commerce has been built up, is the use of bargain money. The absolute necessity for the payment of what is called bargain money, when the fulfilment of a contract is one of the great virtues of the Chinese, proves to be one of those extraordinary contradictions which go toward making the study of this people one of the most interesting and at the same time most baffling that man can set himself. Gillespie found that with the Chinese, "Genius and originality are regarded as hostile and incompatible elements;" so in business we find that bargain money is absolutely necessary where custom, position, and prestige already compel the fulfilment of a contract.

Those who do business in China need no interpretation of the working of the system called bargain money. It is a system as well as a custom, worked most systematically, and is fixed at regular percentages on the amount of capital at stake in a business deal. Once bargain money has been paid, there is no going back by either of the principals, the handing of it from one side to the other being by custom supposed to clinch all talk on the basis of what has been discussed before. If the vendor should endeavour to go back on the bargain, he loses his bargain money.

The bargain-money system permeates the whole commercial life of China, and though insisted upon now by manufacturers or any one vending commodities, land, etc., grew out of the custom that any citizen who wished work, or anything else put through in a hurry, paid what might be termed a retaining fee, or first option money. Bargain money is strongly objected to by the newcomer on his first dealings with the Chinese, until he finds that practically no business can be done without it. The advantage of bargain money to the vendor of labour, work, or goods is very great, as he has, then, just so much capital on which to draw interest until delivery has been made and taken.

By the paying of bargain money the vendee is assured of the work's being done, and of his having to accept delivery, if it should fulfil all conditions of the agreement, under penalty of losing all the money handed over as bargain money. Bargain money corresponds very much to the early English "luck-penny," only it changes hands before delivery of goods, and the luck-penny is a rebate on conclusion of a sale; but, as indicating that both parties are satisfied with the bargain, the two systems are identical in idea.

Purchasing Agents. — A native custom which has grown out of the limited number of treaty ports in China is that

of the "purchasing agent." In a foreign country he would be called a wholesale buyer, except that in foreign countries such a buyer would be granted discretionary power to buy articles which he considered would have a fair sale in his town and bring in reasonable profit to his employer. On the other hand the purchasing agent comes down to Shanghai, or some other treaty port, with a limited number of orders for particular goods which are already the staple stock of the various houses up country. The orders being completed in Shanghai, the agent sets about having a good time in a tea shop or opium den, thus whiling away the time until he can catch a return boat. There is no central place where he can see any new foreign imports on exhibit. The conservative habits of the foreign import houses too often teach the worthies therein that it is beneath their dignity to push business by showing anything that has not been asked for; therefore, under present conditions, it is difficult for consular officials to try to open up new markets.

Such is the natural curiosity of the Chinese that, if they can see and examine things for nothing, they will spend hours learning every detail of a subject which attracts their interest. Were full advantage taken of these characteristics of the Chinese by having a large exhibition hall in each of the larger treaty ports, and particularly in Shanghai, where the Chinese could see foreign products, and foreigners could see Chinese products, the mutual benefit would soon be apparent in the general advance of trade. As nothing fascinates the Chinese mind more than the intricacies of machinery, those who visited a machinery hall would soon learn all the working of a machine and its particular uses, and as no one can compete with the Chinese as a gossipmonger, most of the machinery seen would secure cheap advertisement.

The Japanese see the use of exhibiting in China; but, having no exhibition hall, they have to adopt a more expensive method of advertising, and they scatter broadcast through the country free samples, with detailed descriptions of the commodity printed in native characters that the natives can read, and not in English, which natives do not understand.

Fast on the heels of the sample distributer comes the Japanese commercial traveller, and orders are booked on all sides in accordance with the sample that appealed to the native Chinese. That business follows in the tracks of such a systematic pushing of trade is proved by the fact that the Japanese trade with China has increased in the decadal period ending 1902 from 1.1270 to 14.70 of the total clearage at the Chinese ports. In the same period the United States trade rose from 0.9770 to 1.70 of the total clearage, while the trade of Great Britain received Irish promotion from 62.1970 to 50.70 of the total clearage. But then the merchants and manufacturers of Great Britain and the United States of America appear to consider that the methods which suit their insular or local trade development are too grand and great to attempt in a country which offers over 400,000,000 possible purchasers. In the overstocked market of Europe and America it pays to push trade, but in China, with the aforementioned population, it would seem, the greatest producers in the world consider that demands for goods had better come from the market, although the market does not know the products of the producer.

I may here quote from the report of H.B.M. Commercial Attaché in China: "The Indian export trade was built up by collecting agents in every town throughout the peninsula. Railway stations and the amended inland navigation rules should facilitate a similar method of procedure in China."

The business of the big houses in the treaty ports has become too fossilized and a matter of routine. The heads of these firms or agencies carry on a criminal strangulation of the trade of the home producer whom they represent by considering that every new demand or change in old custom is a decided bore, and that any attempt on the part of juniors to instil energy or bring about change must be crushed if possible. Often is the energetic newcomer who, astonished at commercial stagnation, suggests new methods of increasing turnover, met with the sarcastic remark, "You, who are here for a few months, wish to teach me my business, who have been here for years." This crushes in the bud the natural business proclivity of the Anglo-Saxon, and the youth falls into the beaten groove of his senile business superior, and the principles of commercial progress are completely left out of sight. Certainly there is foundation for this arraignment.

A great deal of this comes from the fact that the foreign houses in the treaty ports of China are agents for several firms, and will not push a particular line of goods lest it should interfere with the goods of another agency which they hold. Some of these firms have come to be known as "ten per centers," the phrase indicating their commission as agents and managers of various undertakings, but it might just as well be applied to the amount of energy they expend on the advancement of trade. On the other hand, there are a few, very few, enlightened *tipans* or managers, who break away from tradition and routine, and are gaining a daily increasing *clientèle*, attracted by the variety of goods exhibited, and by the vigour of those acting under these more energetic *tipans* who make a study, in their spare time, of the customs and needs of the people of the country.

Mutual understanding is the mainspring of commerce amongst the Chinese themselves, and the sooner it is inculcated into the dealings of foreigners with Chinese, the sooner one may look for the spread of commercial relations.

Fêngshui. — In the business life of the Chinese *fêngshui* is as important a feature of business as the go-between. Though foreigners may laugh at the firm belief of the Chinese in this pseudo-commercial science, it is to be found under various names and conditions among the peasants of all nations. In China, from the Emperor to the rag-covered beggar and cripple, there is an implicit belief in the geomantic superstition concerning the grave of a deceased ancestor and its effect upon the present and future generations.

Many of the higher officials and scholars of China claim a knowledge amounting to professorial distinction in *fêngshui.* They claim to be able, from the bend of a tree, the slope of a hill, the curve of a river, to divine the subterranean currents known to Chinese geomancy as the "green dragon" and "white tiger," and the celestial current or course of the spirit known as "the heaven fox." Such a knowledge is sufficient stock-in-hand to insure a profitable business to the purveyor of spirit fortune.

The *fêngshui* trade was confined to the priests until the thirteenth century, when scholars began to make use of the commercial side of the belief, so that by purveying this commodity they could afford to continue their studies. The artful reactionary or revolutionary makes great use of *fêngshui* in getting his first influence over the minds of the people. It is the course of the "green dragon" or "white tiger" which decides for, or against, a local disturbance. Dyer Ball gives an excellent instance of the

influence of *fêngshui* on disturbances. "When two buildings are beside one another, the one on the left is said to be built on the 'green dragon,' and the one on the right on the 'white tiger.' Now the tiger must not be higher than the dragon, or death or bad luck will result." This accounts for the number of single-story houses to be found in town, village, and country hamlet throughout China, and for the unnecessary spreading of Chinese houses over a large area, thereby taking gradually away from cultivated lands, and reducing the amount paying producer tax to the government. Besides this, it is the cause of many of the misunderstandings which so frequently arise between the foreigner resident in the interior of China and the natives. If, therefore, the foreigner wishes to have a house of two or three stories without the risk of trouble, he must seem to pander to *fêngshui*, and build up his left or right hand neighbour's house to a height equal to that of his own; no matter whether his house be on the "tiger" or "dragon," the natives will fancy his is on the "tiger." Thus is superstition made a trade. We continually come across *fêngshui* in the modernizing of China's methods of business communications, such as railways, river steamers, telegraph lines, etc.

No railway must run sufficiently near the grave or lucky mountain pass in China, or it may disturb and scare away the luck spirits of *fêngshui*. For the same reason no steamboat must whistle near a lucky bend of the river, or near graveyards, and no telegraph pole must enable the electric current to kill the spirits in the vicinity of the graves. None of these difficulties will be found to exist if sufficient money be distributed in the right directions, as to local officials, heads of villages, or the owners of the land endowed with good *fêngshui*.

The *fêngshui* cant is an excellent one for obstructive officials who do not desire foreign innovations. As previously stated, there is nothing that cannot be done in China by the foreigner if he considers it worth his while to conciliate the local interests. The influence of *fêngshui* in any direction can be overcome by a judicious foreigner engaged in business relations with the natives.

That the commercial side of *fêngshui* does not hit the foreigner alone is illustrated by the fact that if there is an epidemic of any kind of sickness in a locality near to which a rich man has built a tomb or house, the inhabitants of the district attribute the misfortune to him. He must restore *fêngshui* to the district or pay heavy compensation to the neighbours, particularly to geomancers and priests.

In the neighbourhood of the treaty ports *fêngshui* is not so much felt by the foreigners, and a small squeeze can get a grave removed without any trouble from the parties interested. In the interior the greatest rowdies are the loudest upholders of *fêngshui*.

Compradores and Shroffs. — In foreign commercial intercourse with the Chinese two native individuals must be reckoned as part of the establishment. The more important one is the *compradore*, and the lesser is the *shroff*. They and their duties are quite distinct. The *shroff* is really a petty cash receiver. As it is not considered dignified for the *tipan*, or foreign head of the firm, to have cash dealings with any one, he must employ a *shroff*. The old *compradore* was a very different man from the *compradore* of to-day. Forty years ago the *compradore* was part interpreter and part go-between in dealings between foreign merchants and native traders. He was always the servant of the *hong*, or merchant firm. To-day he is the master, and, as his agency, the foreign trad-

ing firm is tolerated as a matter of convenience. The *compradore* of modern times is generally a rich Cantonese merchant, who could with the greatest ease, in many cases, buy out the foreign firm which nominally employs him. He is a member of every guild that has anything to do with the goods imported or exported by the foreign shipper with whom he deigns to work. The result is that the natural enterprise in a young firm is killed by the *compradore* when it suits him, and thus is trade cramped.

The necessity for *compradores* came about in bygone years, and the practice has continued to this day, owing to the fact that the foreign employees of foreign firms have never learned, and have never been encouraged to learn, the native official or dialectic language, while the *compradore* is generally a good scholar in the particular language of the *tipan*. The idea of employing a *compradore* under the circumstances would seem to be moving along the lines of least resistance, but that is more in the seeming than in the fact. Through the ignorance of the Chinese language and customs displayed by employees of European and American firms enormous power of resistance is placed in the hands of the Chinese, through the *compradores*, who must obey the dictates of the guilds as against those of the employers.

Owing to the power the *compradore* class now wields, there is no remedy for this system, and the *compradores* must be permitted to run the foreigner's business to suit their own convenience. On occasion one has undoubtedly through self-interest been of momentous advantage to the foreign firm with whom his name is associated. He would "lose face" among his own countrymen if the firm broke, and as he can generally command considerable sums, it suits him on occasion to come to the rescue with

his purse and credit. The crisis over, however, he generally gets his own back with much more interest than that of which the firm has any cognizance.

Though the *shroff* is not accountant or cashier, he looks after loose cash, the collecting of accounts, local rates of exchange, individual credit, and in fact runs a general utility business in the petty cash department. All this kind of business suits the quickness of the Chinese, and he is most useful to his employer in this respect. There is, however, an objection to his position also. The employment of *shroffs* tends to extravagance among the juniors in the firm. They borrow continually from him and are thus monthly running beyond their incomes, and lose all sense of personal responsibility, besides losing prestige or "face."

The foregoing shows the abuses of the *compradore* system, but there is a converse to this aspect. His knowledge of the general trend of politics in the different parts of the Empire and the effect thereof on his employer's trade is extensive. There is no large merchant in the interior about whom he does not know something, or concerning whom he cannot on the shortest notice obtain information. He is a walking encyclopædia of industrial, commercial, political, and financial information. On many occasions he saves his employer from transactions with silk-robed, smooth-tongued Chinese merchants whose stability as merchants is more than doubtful. If a Chinese *compradore* could be made to dictate to a writer or to write himself a history of his experiences, it would be one of the most interesting volumes on China that could fall into the hands of the foreign merchants or those interested in Chinese business customs.

Chops.—The word "chop" is used by foreigners with somewhat different meanings, as in general speech it

includes not only the stamps affixed by Chinese to their contracts, but bank orders, the trade-marks printed on goods, and hence even classes of goods; but strictly speaking the word "chop" denotes the stamp of a firm or individual.

Such chops are made of hard wood, and are carved with the characters of the owner and some fancy design to distinguish them. In order to use them they are dabbed into a thick paste of red paint, and, on Chinese paper at any rate, they leave a clear, permanent imprint easily recognized by all Chinese, and in many ways more convenient than the obscure signatures which many foreigners affix. The Chinese call this class of chop "*to cho*," and it varies in shape, design, and size according to the taste of the owner. Firms and *tipaos* generally use rectangular or oblong chops, while private individuals seem to prefer them round or oval.

Chinese firms generally use at least two different chops, one being employed for stamping chit books and receipts, and another or several others for contracts and formal documents.

The custody and use of the firm's formal chop is of course a matter of great importance, and according to the general practice only the manager and accountant have control over the chops. This is intended to prevent any partner from using the firm chop for his private business or for giving a guarantee in the firm's name. In a Chinese firm the partners have, as a rule, little to do with the conduct of the business, and instead of any one partner's being entitled to bind the firm, as in the case of English and American partnership, the manager and no one else is the person who has this power; and consequently he is the person to keep the chop, though he sometimes shares this duty with the accountant.

The method of keeping and using chops was much discussed in the case of Yu-Foo-Chee *v.* Evans and Company (November, 1901), and a Chinese witness described the practice in his office as follows : All the important chops are kept in a safe, the key to which is kept by the manager or proprietor of the *hong*. A small chop marked with the characters of the *hong* name is used for taking deliveries of orders and in receipting letters, and this chop is kept on the writing-table. The chop which would be used for contracts would always be kept locked up in the safe in the manager's office. The small chop would be used for chit books and sometimes for customs passes. And another witness stated that the large chops were kept in a safe, the key of which was kept by the accountant, but that this key could not be used without the consent of the manager, though the accountant could obtain the chop, if he wished to, while the manager was absent ; and it was further stated that the chops were never allowed to be taken out of the office.

When a firm's chop has been affixed to a document, all persons are entitled to assume that it was put on by a person entitled to affix it, and although the characters for the firm's name are added in writing in certain cases, the chop in itself is sufficient to bind the firm without any signature or written characters.

If a chop were stolen and fraudulently affixed to a document, it would of course be for the owner of the chop to set up this defence and disclaim responsibility on the same grounds on which a foreigner would repudiate a forged signature. And it is in such a case as this that the drawbacks to the use of chops, as distinguished from signatures, become apparent.

A forged signature must always be slightly different from the genuine signature, however clever the forgery be.

Consequently the principle of negligence can be applied in cases where two innocent people have suffered at the hands of a forger. For example, if we take the case of a forged mortgage deed, on which an innocent person advanced money, or a forged check innocently paid by the bank on which it was drawn, — in both such cases the person whose signature was forged can well say that a little more care would have distinguished the true from the false signature. But with a chop it is different; if the chop is improperly used, the holder of the chopped document has a genuine stamp, but one affixed by an unauthorized person; and it will be for the owner of the chop to prove that there was no negligence on his part in allowing the chop to be so used or to be stolen.

No definite rules can be laid down to determine the responsibility of owners of chops whose chops have been used wrongfully, and consequently it is desirable in documents of importance, such as guarantees, mortgages, and such like, to insist on both the chop and the signature of the person affixing it. The name is always written first and the chop affixed afterward, either over the written signature or at the foot or at the side of it; and this, of course, applies whether the document is entered into by a firm or a private individual.

The *tipao's* chop is one of the chops which concerns foreigners when they are buying land. According to Chinese practice the *tipao's* chop is absolutely essential to the validity of bills of sale, perpetual leases, and such like documents relating to the transfer of land. The system is an excellent one and goes far to prevent fraudulent sales, for the *tipao*, as village elder, is, in most cases, well acquainted with the parties and with the ownership of the land.

A sale of land is generally a matter of great formality.

The bill of sale is brought to the *tipao*, and the other parties with their middlemen attend, bringing the *fang-tans* or other documents of title and the money to be paid. The document is signed by the vendor and the middlemen in the *tipao's* presence, and he sees the money handed over; and not till then does he affix his chop.

The *tipao* holds office for one year only, and the chop is altered every year, so that it is easy to see at a glance what particular *tipao* has chopped a document. Formerly *tipaos* used to keep their chops after their year of office had expired, but it was found that this led to the fraudulent use of old chops, and according to present practice these have to be given up.

Another chop which interests foreigners is that of the *compradore*. Every foreign *hong* is of course known to the Chinese under a Chinese name, and the *compradore* has this name on his chops. The use which a *compradore* is entitled to make of these chops has been the cause of much litigation, and the leading case on the subject is that of David Sassoon Sons and Company *v.* Wong Gan Ying, heard in the British Supreme Court on appeal from Tientsin in November, 1884. In this case a Chinese *hong* sold to the *compradore* of Messrs. Sassoon certain gold, and the *compradore* gave the Chinese *hong* receipts stamped with the chop bearing the characters for the Chinese name of Messrs. Sassoon's firm.

Mr. Henderson, who sat as one of the assessors on the trial in Tientsin, has put on record an interesting statement of the course of business of *compradores*. He says that it is well known that *compradores* trade largely on their own account and use the seals or chops of their foreign employers for their private business chits; such chops are used also for business receipts and agreements. He says that he never knew or heard of a *compradore* in

foreign employ using a separate stamp or seal from that of his foreign employers, even for his own business.

Messrs. Sassoon contended that they had never authorized the use of the chop for the stamping of the receipts in question, which related to a private business transaction of the *compradore*. But Sir Richard Rennie, holding that if principals authorize the use of a chop by the *compradore*, it is just as good as a signature, decided that the receipts stamped with chops bearing Messrs. Sassoon's Chinese name were sufficient to justify the sellers of the gold in thinking that they were dealing with Messrs. Sassoon and in giving credit to them, and not to the *compradore;* and consequently held that Messrs. Sassoon were bound by such receipts and liable to the sellers thereunder.

Until this case is overruled British merchants must realize that in allowing their *compradores* to use chops bearing the names of their employers, they are liable for the abuse by their *compradore* of such chops to Chinese who believe they are dealing with the foreign employer. But the hardship is not unfair, considering that the foreign employer can exercise his discretion in selecting his *compradore* and in obtaining proper guarantees for his honesty.

The chop or seal which appears on *fangtans*, proclamations, and such like is strictly speaking an official seal. That used for *fangtans* is called *Yin*, and is a seal made of metal and only used by high officials. The seal used for proclamations and government documents is called *Kwan Pang* or *Keen Kee*, and in certain cases purple ink is used instead of the usual vermilion.

Another stamp which is often called a chop is the *Wei Wha*, or stamp on native bank orders, to signify that the

paying bank will have a day's grace within which to pay the cash. That is to say that they will not be required to pay until the day after the order became due. This *Wei Wha* chop is an introduction of recent years and has been the subject of considerable correspondence between the foreign merchants and the native bankers.

CHAPTER XI

BANKS

THE first national bank of China owes its origin to an imperial edict which was issued in the year 1898. The edict provided that the bank should have its headquarters at Shanghai and that the rules for its government should be similar to those by which European banks were governed. In all the centuries of China's history there had never been such an institution as a national bank recognized by an imperial edict. Nowhere within the borders of the Empire did such an institution exist. But now there is an imperial bank not only at Shanghai, but also at Tientsin and at Hankow, and probably there will soon be similar banks in all the principal ports of China. If the central government had the confidence of the native merchants, the imperial bank might prove a formidable rival to the foreign banks doing business in China, but that confidence is not given to the extent of any assured basis of success.

What I intend to write about, however, in this chapter is the system of native banking, which the Chinese originated before banking was known in western countries, and which has answered their business needs.

When a Chinaman wishes to engage in banking, he should first be sure that his financial standing is good among his neighbours, and that he has sufficient capital to ensure reasonable success. When satisfied as to these two requisites, he may then select a suitable house and hang

out his sign, on which he announces his business to the public. He may be alone, or he may have associates, and the latter is more the custom. There is no necessity for petitioning to any official authority for permission, and no charter is required. Thus it appears that no business could be entered upon more simply in China than banking.

I have before me a pamphlet devoted exclusively to Chinese currency and banking, by Wong Kai-Kah, and as I have not read a clearer and simpler exposition of the native system of banking in China, I make the following quotation from it: —

"The smallest business done in a purely financial line is that of the money-changer, who starts business with a thousand or a few hundred dollars, the greater part of which consists of small coins. He hires one side of a shop, provides himself with a chest, a small counter, and a few books. These money-changers are found in every street at certain intervals. Their sign-board, with the word 'Money-Changer,' is conspicuously hung out, and pasted against the window of their shop is a bill informing the public of the value of a dollar in cash or small coins, according to the daily local rate. This rate is fixed by the money-changers' guild, which in turn is governed by the guild of bankers, who, more than the authorities, control the local money-market. The money changers make about five cents for changing a dollar into cash, and if you take the same amount of cash to another money-changer to get a dollar, you will have to pay him five cents for premium. In case of a British or American sailor, the victim pays a little more, but the jolly jack, bent on a good time, seems never to mind an extra cent or two.

"The capital of the local banks ranges from 10,000 taels

upward. They are found in all large towns and cities, some of them paying interest on deposits, and all are subject to the full amount of their liabilities, the word 'limited' having never been employed as a safeguard, as they think that to limit their capital or liabilities would only destroy their financial standing. The more important banks may be divided, for convenience of treatment, into three classes, viz. : banks in Chinese cities; banks in Hongkong and foreign settlements; banks which are organized on the modern foreign system.

"The typical native bank in any Chinese city, unlike the palatial banking-houses of Europe and America, has a very common-looking appearance. It has no iron vaults or strongly built stone basement against fire, though great precaution is exercised against robbery. I suppose this is because banks are not required by law to keep on hand a large deposit as security against the issuing of notes. They are entirely local enterprises for the facility of merchants and traders, and receive deposits for which they pay from five to eight per cent *per annum*, the rate varying according to the condition of the money-market at the time of deposit, and the number of months the money is to be deposited, the shortest period being six months. There is, however, some latitude in drawing deposits from a bank. Suppose I deposited $500 for six months in a well-known bank, with which I do considerable business. If four months after my deposit I have an urgent bill to pay, I ask the bank to accommodate me, which it generally does, provided I pay, say, three months' interest. In this way the bank makes a small gain, while the depositor is saved from embarrassment. The bank invariably gives the depositor a receipt on which is specified whether the money is to be drawn by the depositor himself or simply by the bearer. The amount of interest is also put down

and the date. In case the depositor is to draw the money, no other person will be given the money under any circumstances, and in case of mistake the bank bears all losses. But if the receipt specifies that the money may be drawn by the bearer, any one, even a thief who had stolen the document, may draw the money, the depositor being the loser. In case the receipt is burned or stolen, the depositor must give timely notice and bring to the bank a reliable and trustworthy person to testify to his words and become surety. When the bank is satisfied, a new receipt is made out, the lost one being no more valid. The depositor is also given an interest book, marked with the stamp and signature of the bankers. With this book the depositor may draw his interest by the month or by the quarter, as agreed upon between the parties. The local banks sometimes issue a limited amount of notes, but these have no wide circulation unless the bank has an old standing and is in a strong financial position. This status of a bank is ascertained by 'watchers,' who are employed by banks and commercial houses, and whose sole business is to make daily visits to the banks and closely observe their dealings and financial conditions. Bank notes or promissory bills are issued only by leading bankers in a city, varying in value from 50 cents to $1000, and supplying many advantages, with but very little danger. The blue, black, and red colours, which are blended together with many private signatures and fanciful indorsings on these bills, give them a rather gay appearance. The name of the issuing house and the characters or words, traced around the face in bright blue ink, form the original impression. The date of issue and some ingeniously wrought cipher, device, or monogram, and the spaces marked for the reception of signatures and certain mystic or secret marks for the prevention of for-

geries, are of deep red. The entry of the sum, the names of the partners and cashiers, stand forth in large black characters. On the back are the indorsements of various individuals through whose hands the note has passed, in order to trace the course of the note and facilitate the detection of forgery. The indorsers of these notes are not, however, liable or responsible for any irregularities. These notes are not regarded as legal tender, but accepted on good business faith, and redeemable in silver dollars or copper cash on presentation. The issuing of these notes enables the bankers to divert their capital for other legitimate business, and may thus increase their earnings. For their own interest bankers do not issue of these notes more than they can readily redeem in case of a rush, which often happens when some rival house or an evil person spreads the rumour that a bank is not in a firm position.

"New banks whose credit is not considered well established by the commercial community never attempt to issue such notes, because they will never be accepted by the public. Age and long-standing reputation mean everything to the Chinese merchant.

"There are various ways of making money for the native banks. If they are agents of some provincial banks, they discount bills. They often deal in bills of exchange, acting as agents of Chinese banks in Hongkong, Macao, or Shanghai, where bills may come from emigrants residing in the United States, Australia, or other foreign countries. They receive deposits, which are lent out to merchants at a good profit. In lending out their money they ascertain by their watchers the business standing, character, and financial position of the applicant, and if they are satisfied, the money is loaned on good personal security, which is nothing more than business faith. The applicant, of course, refers the bankers to some

reliable business men, who act as security, usually receiving something for their trouble and risk, for, if the applicant fails to pay the loan, the security has to be responsible for the whole debt.

"There is a saying in China that a man will be comparatively happy if he is not a witness or a surety in any case. It seldom happens that a loan is secured on mortgages of real estate, though goods and merchandise may be handed over to the banker, who will advance the money. In Shantung, Szechuan, and other places, bankers have large go-downs, in which they stow grain, bees' wax, medicinal herbs, and other stuff, deposited as security by their customers. They also make a large profit by the handling of silver. In receiving silver dollars by weight for payment they require the clean dollar, which must not be marked by ink, or vermilion, but in paying out they stamp it with their own mark, with ink on one side and vermilion on the other. They warrant the coin to be good as long as their mark is on it, but in case their mark is obliterated they will not be responsible. The difference in weight of the coin becomes their profit. When the foreign trade was concentrated in Canton, one bank made $100,000 in one year from this source alone. Many banks have a *sycee* mint of their own for the coining of silver 'shoes' or lumps. All the Mexican dollars that have been either chopped, or clipped, or have no standard ring in them, are melted and cast into *sycees* of five, ten, or fifty taels. On these 'shoes' of silver the names of the bankers and workmen and the date are stamped, the firm issuing the silver being held responsible for any irregularity. The way bankers make a profit from their mint is as follows: they buy from brokers whose business is to purchase silver dollars of a low standard, or not passable at the full rate, from shops and money-changers. These

dollars are bought at a price far below the value of the silver in them, the brokers, by their experience and training, being able to judge with great accuracy the market value of such coins. The brokers sell these suspicious dollars to the bankers at a small profit, and the bankers in turn melt the coins down, and extract the pure silver, which is cast into 'shoes' of *sycee*. The banker's margin of profit is the real value of the silver extracted from a dollar above the price he paid for it.

"The Chinese banks which do business in the foreign settlements, such as Hongkong, Shanghai, Tientsin, and other places, differ from banks in purely Chinese cities in only one respect, which is, that they do business much more on real estate security than they do on personal security. This adoption of real estate securities in the foreign settlements is a means of safeguarding the banker's own interests, because it often happens that in a lawsuit heard in the consular or in the mixed court, a personal security, with nothing more than a record of the transaction in their books, is in many cases not considered sufficient evidence. Being made wiser by foreigners and western methods of business, they have thus been obliged to demand solid securities beyond the standing and reputation of those who negotiate for loans. Technicalities of western law rather puzzle the mind of Chinese merchants, so that in large and important transactions a European lawyer is generally employed to draw up the deeds. Money is lent on mortgages, and bankers will accept bills of lading or receipts from foreign firms through whom the borrower has ordered goods, such bills or receipts in these cases being invariably indorsed by some shipping firm or business house. These banks do a large business among the Chinese merchants of the treaty ports, and even with foreign countries, from which their Chinese

agents will remit the money sent by emigrants to the interior of China. In these latter instances the banks make something by the exchange, and the depreciation of silver has somewhat increased the earnings of the banks by remittances and drafts."

I do not think that any apology will be considered necessary for the length of the above quotation from Mr. Wong's pamphlet. Being a native of China and having been educated at one of the principal American colleges, he has been able to express in clear English his experience and knowledge of the banking system of his own country. My personal acquaintance with him and my own observations convince me of the accuracy of his exposition.

But there is a peculiarity in oriental life which many, more or less familiar with it, too often forget. It is that the occupation of the father is invariably that of the son. It is this peculiarity which has enabled the inhabitants of the province of Shansi to monopolize the banking business in the large and influential commercial centres of the Chinese Empire. It appears that for as many as a thousand years the inhabitants of that province have prided themselves on furnishing the leading bankers, and they have done so, for the Shansi bankers are the most numerous and influential who transact their business by purely native methods. "They have worked out among themselves a very high commercial morality by a vigorous domestic discipline."

How the Shansi bankers have maintained, for so long a period, their high commercial morality and their great influence in the financial affairs of the Empire, is explained in the following extract by T. W. Wright of the Imperial Maritime Customs Service :—

"A peculiar feature in the constitution of these banks is the extraordinary manner in which the employees are

treated. The bankers themselves, being Shansi men, employ only natives of that province, and, when possible, select men out of their own villages. When a man is appointed to a post at one of the branch offices, his family is taken charge of by the bank, and held as security for fidelity and good behaviour. At his post the employee may send no letter to his family, except an open one through his master; he receives no pay or salary of any kind while away; officials are entertained, clothing is purchased as required, and sundry expenses are incurred, and every item is met with the bank's money, the strictest account being kept of all expenditure on behalf of the individual. A man holds his appointment for three years, and then returns to his employer's house, taking with him the account of the money expended during his term; he is duly searched, and the clothing he has purchased undergoes examination. Should it happen, after examination, that the accounts, etc., are satisfactory, and the affairs of the bank have been prospering during the man's tenure of office, he is handsomely rewarded, and is allowed to join his family, who are immediately released. If, on the other hand, business has not prospered under the man's management, and he has presented an unsatisfactory account, clothing and everything are retained, and the family are held in bondage until a suitable fine is paid, or the man himself may be imprisoned."

The Shansi bankers are not to be considered in connection with any other class of bankers in China. They are independent of the average local bankers, and move in a wholly different sphere of business. Many of the Shansi banks may be said to enjoy a semi-governmental character, in that the money due from the provinces to the central government is remitted through those banks. They are also used as banks of deposit by a large number of

icials, and in that way keep up a very *influential* with official China. But the Shansi banks *have* way of keeping in close touch with official China: vance money to officials who find it necessary, often happens, to obtain preferment or advance- paying for it. When such is the case, the Shansi who always appear to have an ample supply of oney, seldom refuse to extend the desired accom- n, but at the same time they protect themselves in ways.

sense, and perhaps the better, these banks asso- gether in a guild of their own which is organized ual protection. The members of the bankers' e usually the heads of the principal banks. They regular intervals to discuss matters relating to siness and to formulate lines of policy to be

Shansi bankers are not in the habit of making he regulations, the close adherence to which has them not only to win success, but to hold and im-

A regulation of the Wuhu bankers' guild shows er it exercises over members. After having stated many irregularities having recently been discov- is desirable to put a stop to them without delay, kers have accordingly drawn up, and sworn to r, the following rules and penalties for infringe- he regulations proceed: —

All bankers when exchanging *sycee* into Carolus can dollars, must calculate the exchange at the ted on the guild notice-board. Any banker giv- accepting a different rate will be fined $100. suing drafts on Shanghai, the exchange shall lated according to the guild notice-board, and the nited to ten days after sight, or to a maximum of

twelve days from the date of the draft. Any banker giving or accepting a lower rate or longer time to be fined $100." Rules 3 and 4 are of no interest, but the fifth rule is as follows: —

"Every banker must attend at the guild house on the fifteenth of each month, to decide on the rates of exchange, interest, etc., and post them on the notice-board. Any one adopting a different rate to that decided on to be fined $100. 6. No bankers are allowed to grant favours by ante-dating or post-dating drafts. Penalty for infringement $100. 7. Every banker must deposit $100 with the guild, at interest at the rate of three mace per ten days. If any banker breaks the rules, his deposit will be forfeited to pay the fine; if there is no infringement in one year, the interest will be payable in the first month of the following year. 8. Any banker who has once been fined must again deposit with the guild $100. If this amount is not deposited, the defaulter will be expelled from the guild and boycotted. Any member of the guild doing business with a defaulter will be fined $100. 9. Any person who denounces to the guild a banker who has infringed the rules shall receive one-half of the fine of $100, while the other half will go to the funds of the guild. 10. If, when books are balanced at the end of the year, it is discovered that any member by underhand dealing, not covered by any of the foregoing rules, has caused loss to any other member, the offender's deposit of $100 shall be forfeited, and he shall be suspended until he makes good all such losses."

The Shanghai bankers' guild has two branches, and regulations for each. Those for the northern branch read as follows: —

"*Dollars.* — In paying out new dollars the issuer must imprint them with his seal (washing out the previous

imprint), otherwise they shall not be current. Disregard of this rule entails a penalty. According to former rule, ten kinds of dollars are uncurrentable — to wit, the light, dull-coloured, flowery-spotted, dull-sounding, copper-alloyed, edges unusual, three stars, circles (?) on the reverse, head upside down, yellowish hue, white — to which is added, such as have unusually fine edges.

"*Sycee.* — Bills from or to foreign banks (and merchants generally) that accompany boxes of ingots are not to be altered; they are to indicate the number, weight, value in dollars, the premium or discount, all in capitals, not in running hand; also the date, the bank by which issued, and seal, in order to prevent irregularities. New bills must be out, descriptive of the ingots; when any are taken out of the lot, the old one to be cancelled.

"The bills accompanying *sycee* that are issued by the banks of the guild are for outsiders only, and not for guild banks circulation (those of the northern branch are at a premium compared with the southern). When payments from foreign banks to guild banks are in ingots, a descriptive bill is to accompany them, having first the seal of the foreign bank, that when found deficient, they may be returned. When the amount of ingots to be paid by a foreign bank exceeds fifty (as a rule there are fifty to a box), the balance is to be paid in notes. When a guild bank has to pay a foreign bank less than fifty, it must make out a descriptive bill, and seal it. When inferior *sycee* is paid by a foreign bank, it is to be returned the next day by noon (or if Sunday intervene, on Monday).

"*Miscellaneous.* — Checks for less denomination than ten dollars are non-receivable. Guild banks having notes to be cashed at foreign banks shall present them before 3 P.M., except on Saturdays, when they shall present them

by 11 A.M. When a foreign bank pays to a guild bank a round sum in ingots, the latter shall make out a bill for the balance."

Those for the southern branch are : —

"*Interest.* — Loans of ingots are to be charged at the rate of seven mace *per diem* for a thousand dollars ; the smaller charge for dollars is in conformity with orders from the mandarinate. For all checks cashed the sender is to be charged as under the old rules, — from three to five mace, for every thousand taels.

"*Against Speculating.* — In buying and selling ingots and dollars all settlements must be made on the day of the transaction, — that thereby there shall be no empty buying and selling. (This rule also is conformable to magisterial mandate : until its formulation, not long since, the exchange of the northern branch of Shanghai banks exhibited the same maddening scenes as those which occurred among Ningpo bankers, as already described.)

"*Clearing-house.* — Each money-dealer must send his books to the exchange twice a day, to square accounts, under the supervision of the manager for the month.

"When orders are made payable in old dollars, old dollars are to be furnished ; but when the kind of dollars is not specified, payment may be made in those in ordinary use by the bank.

"These rules, supplementary to the old ones, conduce to the promotion of business. We unite in establishing them, and they should be loyally observed ; their infringement shall be inquired into, and summarily punished."

It may be repeated in this connection that a traveller in China should have no difficulty in obtaining all necessary pecuniary accommodation, whether he travels in the provinces bordering the extreme limits of the Empire or nearer to the open ports. The system of exchange

between native banks is so perfectly arranged that one can travel with a letter of credit in China about as conveniently as in Europe or America, and the information is easily obtainable as to the financial standing of any bank against which a check may be offered. The banks for the transmission of money from one part of the Empire to another are known as exchange banks, and such banks are almost all controlled by the Shansi bankers.

But these exchange banks do not as a rule receive deposits from the public. The reason given for that policy is the fear of damage to their credit. They have their agents in every important business quarter where customers are likely to be found, and the duty of these agents is to inquire and inform themselves fully as to the business standing of all such, and to gauge accurately their credit and report it. Sometimes the exchange banks will receive money on deposit from the government or from high-grade officials, but when this is done, the banks do not pay more than five or six per cent *per annum*, as it is regarded more as a favour to the depositor than as an accommodation to the bank.

Another rule of the exchange banks is not to loan money on land or houses. Most of their loans are made to the local banks, and these last advance it in trade on personal security. Another custom is that the advances made by a local bank to a merchant are made on personal security and not against the merchandise.

In some places it is the custom that when a bank fails to discharge its obligations on the presentation of bills, by immediately redeeming them, the holder has the right to seize any property of the bank sufficient in value to pay his bill, and to take it away with him; he would not be liable to prosecution either for theft or for a misdemeanour. There have been instances of a conspiracy to

rifle a bank of its contents by the conspirators calling in a body and presenting their bills with loud outcries and threatening demands. On one occasion a gang of conspirators undertook to plunder a bank, but when it was learned that they had no money in the bank, and that their aim was plunder, a vigorous viceroy had their heads taken off in front of the bank's building.

When a bank is apprehensive that a run is about to be made on it, and is not fully prepared to meet it, the precaution is taken to make publication that the bank will "hereafter pay." When such a publication is made, custom forbids any interference with the bank. But the words "hereafter pay" do not mean that the bank is unable to meet its obligations, but rather are somewhat in the nature of a plea for time, as the real significance of the notification is that the bank is able to redeem its bills and will do so. It further implies that the bank will not issue any more bills at present, or that it is desirous of closing up its business.

In China as well as in other countries there are counterfeiters, and the bills of Chinese banks, although made with care to prevent their being counterfeited, have not escaped the skill of such offenders. When proved against one, counterfeiting is a capital crime; but it is a common saying in China that even a thief is not complained of or molested by his neighbours unless he should steal from them. Neighbours do not interfere in what does not personally concern themselves. They aim to live in peace and free from official interference, and are not going to intervene in matters that do not involve the good order of their neighbourhood. A skilful counterfeiter, however, is managed in a peculiar Chinese fashion. When one is known to have extraordinary ability as a counterfeiter, he soon becomes known to the banks. No attempt is made

to have him arrested, but word is conveyed to him that if he will cease his operations, he may feel confident that at stated intervals he will promptly receive a certain sum of money agreed upon. There is customarily the additional stipulation, that if this head-master in counterfeiting should have students under him to whom he was teaching the art, a larger sum would be paid upon the condition that the class was adjourned *sine die*. Such is one way in which Chinese banks protect themselves. Possibly the lowland Scotchmen borrowed the idea when they paid Rob Roy and secured his protection for their flocks against other Highland marauders. In both instances the remedy is very effective.

The Chinese have high regard for promptness in business. They are law-abiding and appreciate the fact that successful business demands order and respect for established custom. They are merchants by nature and believe that the surest foundation of prosperous business is an orderly state of society.

There are foreign banks at nearly all the treaty ports of China open to foreign trade, and the facility and convenience given to business of every description by the native and foreign banks leave but little to be desired in the department of banking. Foreign and native merchants have only to exhibit the credentials which entitle them to confidence, and the favour of the banks will generally be extended.

But the inner system of China's banking must still remain in many parts a mystery, until foreign intercourse opens wider the forbidden door. That it is accurately based and meets the necessities of native business, may safely be inferred from what is known of this system.

CHAPTER XII

WEIGHTS, MEASURES, AND CURRENCY

In China as in ancient Rome the first coinage was in bronze, and the reason was similar. In both cases bronze was the metal of which warlike weapons had long been made; it was trustworthy, had arrived at a fixed value, and was convertible. In both cases, before the issue of bronze as a coin, the actual weapons had served as a medium of exchange, and it was this that had suggested the issue of the metal itself, with some mark to guarantee its weight and quality, instead of the weapon which had always to be weighed to ascertain its exchangeable value. There was at first no fixed form; the metal is to be found as simple cast drops marked with the weight, and also, a survival of the original use of weapons themselves, as imitation swords. As the Romans, originally a pastoral people, counted their wealth in cattle, they placed on their earliest coin the emblem of an ox; the early Chinese, for whom agriculture had become a religion, with the like aim of indicating their ideas of wealth, made theirs sometimes in the shape of a spade, which they called "spade money"; the word for money here, in modern Chinese *pi*, being connected with a widely extended root, from which come equally Latin *pretium* and Greek πρᾶσις, and our own "price." Frequently, too, the spade assumed the shape of a Chinese jacket folded up, a form readily derived from the other, and representing one of the most common articles in the market. At first this

money took the form of mere tokens "exchangeable for goods" or for corn, and seems to have been issued without any special authority. Weights and measures were, however, reduced early to standard, and the "Songs of the Five Children" in the Shu King apparently refer to these being kept in the prince's treasury. Some of the earliest cash, too, state the weight of metal, probably bronze, against which they were interchangeable. The names of cities frequently appear on ancient coins as if these were only current locally. The first state which seems to have issued coined money, *as a state*, was Tsi, in Shantung, which made them in the form of swords with a round hole through the handle for the convenience of carrying on a string, and this example seems to have been quickly followed. Still the issuing of money as a prerogative of the state does not seem to have occurred to any of the rulers prior to the time of T'sin Shi Hwangti; and neither he nor any of the sovereigns of the Former Han placed on the coins issued by them either the dates or names; and indeed the great traveller Chang K'ien, who was the first Chinese to penetrate to the states of the west, — Baktria, Parthia, and beyond, — remarks, as curious, that the rulers of those states placed on the face of their coins their effigies, which were changed in each succeeding reign.

Larger transactions than mere buyings and sellings in the local markets could, of course, never have been settled for by coins of so small value: the medium here was metal *kin*, but the particular metal is not stated in the historic books; for although *kin*, in modern Chinese, is applied specifically to gold, it has a more ancient and generic application to metals in general. With Mencius it is invariably used for bronze, and this seems to have been its most general use in prehistoric times in China.

What is known, then, in the age before statistics, is

that China, after leaving the stage of pure barter, exchanged the goods she desired to dispose of against some metal in bulk. In this practice China agreed with the other nations of antiquity of whom traces have survived.

Gold as a metal has been known from the earliest period, but its use was confined to personal ornaments, for which its ductility and beauty specially recommended it; its use as a medium of exchange belonged to far later times, and in fact was introduced by King Darius as a complete novelty, the coins thus issued after him having been known as "darics." According to Herodotus the Lydians claimed the first invention of coins in substitution for metals in bulk, and recent researches tend rather to confirm than to contradict this statement of the historian, or at least indicate that to the countries about the Ægean is to be attributed a reform so vital to the growth of commerce. But although gold, as a medium for coinage, came into use in the time of Darius, and the use was thereafter copied in Macedonia under Philip and Alexander, in all these cases the value of the gold coin fluctuated according to the exchange, the other metal, be it bronze or silver, being looked upon as the more stable, and so the standard, — a state of affairs still subsisting throughout Asia generally.

That in China, in the time of Mencius, the *kin* used in these transactions, as was the case contemporaneously in Greece and Rome, was bronze, may be judged from the records of his discourses. This sage was accused of accepting bribes; he had refused one of 2400 taels, which in sterling would be worth, say, £5000, supposing the metal were gold; yet, said his critics, "You took on two separate occasions gifts of 1700 taels and 1200 taels: how was this?" "I took the 1700 taels because I had to go to Sung on business, and travelling costs money," was the reply. The

journey to Sung would certainly not have cost £3500. The other case of the 1200 taels of metal, he explains, was for the purpose of arming himself. A friend had warned him his life was in danger, and had sent him the metal to make weapons to defend himself withal. Taking the metal at the time in use as bronze, both as arms and as the recognized currency, there is no difficulty in explaining the story.

It is curious that in none of the Confucian books, with the exception of the Shu King, and then only once in connection with chased work, on the borders of Tibet, does the word "silver" occur, while several times the metal of which arms were made, clearly bronze, is mentioned. It was not, of course, that gold and silver were not known, but that they did not come within the ordinary daily wants of the age. They were treasured as personal ornaments to be handed down as heirlooms, and seldom came into the market as constituents of trade.

In the Han books, on the other hand, I find *yen*, silver, gradually replacing the word *kin* as the ordinary title for money. Still *hwang kin*, "yellow metal," occurs occasionally as the appellation, when gold, the metal, is especially intended. The change was thus contemporaneous with the wide expansion of trade, incident on the opening of communications with the great West, which called for an assimilation of the currency to that in use in the older established Empires of western Asia.

Now it is noteworthy that China does not seem to have been solitary in this early confusion between bronze and gold, both words in many of the older languages being traceable to the same root. Thus Sanscrit has *hrikus* and *hiranam*, both connected with an older form *hri-* or *hary-*, and referring merely to the colour, tawny yellow, of both. Similarly, the Greek χαλκός and χρυσός are closely con-

nected. Gothic *gulth*, the modern English "gold," has a similar origin, and though there is no corresponding title for bronze, the name adopted, allied with "burn" and "brown," shows the prevalence of a similar idea. So Latin *aes* (*aeris*) is not remotely connected with *aurum*, and both find an explanation in the root of *ardeo*, to glow.

Iron had been long before discovered, probably about fifteen centuries before Christ, and was certainly largely used in agricultural tools. As iron it was, of course, unsuitable for weapons, as swords and armour, and the metallurgy of steel was not sufficiently perfected to render it trustworthy for such uses. Hence the use of bronze was extended far into the iron age, and indeed has only within the last half century finally died out, as the continued use of the English word "gun-metal," for one of its varieties, still remains to indicate.

In no country can the consideration of the currency be dissociated from the wider question of weights and measures, and this consideration will enable one, perhaps, to throw light on the earliest systems current in China. Although, in the times of the Chow states in northern China, there were already attempts made to establish some common system of weights and measures, for various reasons, probably connected with the jealousies existing between the different petty kingdoms, each independent of the other, but little progress was made. It was not till the time of the "First Emperor," T'sin Shi Hwangti, that any scheme of unification became possible. Before, however, proceeding with any reforms of measures and currency, Shi Hwangti found it advisable to unify the systems of writing then prevailing, which were still in the most inchoate condition. With this object in view he called in the aid of his celebrated minister, Li-Sse, and established the college of the Poh-

Sse, composed of seventy of the most learned professors of the day. The result was the formation of the Siao-chwen ("small seal character"), which has formed the basis of written Chinese ever since. The different states varied so much in speech that colloquially they found it difficult to converse, but the newly invented system of writing supplied the want for the written speech.

The next task seems to have been the unification of the currency, and that was no less difficult. Unfortunately there is no such record of the steps taken, and one is thrown back on the remains of the coins illustrated in such works as the *Kin-shih-soh*, which are by no means detailed, nor of unquestionable authority. Coins were issued bearing the inscription *pan-liang* (half-tael); as these coins are said to have been of the diameter of 1.3 *chun* (Chinese inches, probably about 1.66 English), this weight, which in modern measure would amount to about 2.90 grains, probably represented their true weight. The history of the Chinese cash is thus by no means unlike that of the Roman *as*. Like the *as*, it was first issued of the full weight, but quickly degenerated and became a mere token.

The word "*liang*," to represent a weight, seems here to appear for the first time. In modern times there are in China, as is well known, two series of weights in use, one for ordinary market transactions, and one reserved for weighing gold, silver, and such more valuable articles as fine silks and pearls. A similar condition of things occurs in the home lands, where are still used avoirdupois or troy as the article to be weighed is of ordinary trade or is bullion.

The so-called money, issued by the various states prior to the establishment of the Empire 221 B.C., was, as above explained, really a token issue exchangeable against a cer-

tain amount of grain. T'sin Shi Hwangti desired his to be absolute coin of standard weight. The weight adopted needs some explanation. The ordinary weights in use, as mentioned in the Confucian classics, were the *hwan* and the *lüt*, — the first, as indicated by the ancient character, being a bowl, the second, as shown by the sign used, a hand grasping the character for corn, signifying a handful. The coins were in fact tokens or delivery orders representing a *lüt*, or later five against twelve *lüt*. Shi Hwangti's reform consisted in changing the token for an absolute piece of money, and the weight adopted was half a tael, practically 2.90 grains. Now originally the tael was the weight of a bronze arrowhead, as the higher denomination, the *kin*, was the axe-head. *Kin* still, in modern Chinese, retains its meaning of axe, and is represented in the seal character by a sign indicating an axe swung by the handle; the sign used for *liang* equally represents a pair of arrows in a basket quiver. The word ἄτρακτος, in fact, in its meaning of spindle or arrow, the Sanscrit *terku-s*, is connected phonetically with the Chinese *liang;* both originally having been formed of bronze, as was also the coin. Now in prehistoric times, before decimal counting had been introduced, the Chinese, like other nations, formed their subdivisions by dividing continually by two, and hence the axe and the arrowhead came to bear the proportion of 16 to 1 actually borne by the *kin* to the tael; but with the general introduction of the decimal system, which certainly took place before the foundation of the Empire, both could not coexist, and while the tael continued the standard for money, the *kin* was made the substitute for the older *hwan* in ordinary marketable transactions. There ensued a period of confusion after the death of the first Emperor, but with the accession of the Hans the older system of

weights died out; and from that period the *kin* and the *liang* continue the chief weights, but with the distinction that the one is used for ordinary articles, the other for bullion and valuables.

As in Rome, the *as* did not long retain as a coin its ancient value, but was continually reduced in weight according to the immediate exigencies of the state, we find a similar and progressive deterioration also taking place in China; and from the beginning of the Han dynasty the coin, now for the first time called a *t'sien*, or tenth (by foreign residents a *cash*) became reduced in weight and value.

So in measures of length I find a duplicate system prevailing, as the object to be measured consisted of goods, as cloth, etc., to be measured for sale in the market, or of land, to be assessed in taxes to a feudal superior, or annually divided as folkland for the purpose of cultivation, or measured in stages for the imperial post service. Curiously, there is the same distinction existing in England to the present day, where the two have entirely different standards. The measure made use of in trade is founded in China on the *chik*, or rule, as in England on the yard, which is simply the ordinary length of a *yerde*, or walking stick. Other measures, as the foot and the ell or cubit, have from time to time prevailed, but the rod seems eventually to have been found the most satisfactory. The Chinese word "*chik*" seems to have no reference to the foot, and is probably only a variation from *chak*, a rule or standard; perhaps associated with a form meaning to double, and so connected with Latin *cubitum*, the double arm, the elbow. The land-measure is, on the other hand, founded on the ordinary stride or double space. It is counted in China as $5\frac{1}{2}$ English feet, and hence comes into a curious connection with the English perch of $5\frac{1}{2}$ yards, or

exactly 8 times the length, which forms similarly the basis of English land-measurement. The similarities, which certainly point to some early association, do not end here. In both systems the standard multiplier is 40. Thus, in English land-measure the foundation of large areas is taken as the furlong (furrow-long), which consists of 40 perches, or 120 Chinese *pu;* this length, with a width of 4 perches, forms the English standard acre, and, with a width of 2 Chinese *pu*, forms the standard Chinese *mow*, corresponding with the acre as the standard of area for all imperial purposes. The Chinese *mow* is thus the exact equivalent of one-sixth of the acre. The furrow-long, as has been seen, is in length 40 perches (220 yards). In China the same length, 120 *pu*, multiplied by 3, forms the *li*, the Chinese unit of road-measures, which thus becomes the three-eighths of the English mile. The combination of these two factors, the *pu* of 5½ feet, and the multiplier, 40, will bring out many similar approaches between the two.

With the want of precision which at all times characterized Chinese measures, it is not to be expected that in any part of the Empire these weights and measures are to be held exact. Thus the *li*, as a measure of travel, differs considerably in different parts of the Empire, and often degenerates into a rough measure of the time occupied in traversing some particular portion of a road, and not infrequently the traveller finds the distance between two towns differently counted as the road ascends or descends. Land-measure is apt, too, to be stretched in poor land to make up in a rough way for its inferior productiveness, and so go toward equalizing the taxation always assessed by the *mow*. The clothmaker's, the mason's, and the carpenter's *chik* will also be found to differ in any locality, and hence much confusion arises even amongst the natives of a single district. Still, on the whole, throughout the

Empire these various discrepancies oscillate about a mean, fairly represented by the measures given above. Necessity has, however, in one or two instances compelled exactitude. Thus, the monetary tael, however the local tael may vary, is always of the standard weight of 579.85 grains troy. Curiously, this uniformity does not produce a standard currency. It is in many places an old custom, for instance, that an *ad misericordiam* allowance should be made in the payment of taxes. Thus in Shanghai, in paying government taxes, 98 taels are accepted as the equivalent of 100; so the proportion of alloy varies, the fineness being reckoned in different localities from 916 to 1000, and these distinctions have ever been a source of inconvenience to the natives themselves, and are upheld partly through the national dislike to change, but mainly through the influence of powerful associations who find profit in their continuance.

The commercial currency of modern China is silver, with the tael as the unit of weight. Chinese history is silent as to when or how this change from the old style came about. As above mentioned, silver as an article of exchange does not occur in the Confucian classics, and one first catches glimpses of it, as such, under the Han dynasty. In all probability, therefore, the introduction of silver in mercantile transactions was contemporaneous with the opening up to Chinese commerce of central and western Asia which followed the travels of Chang K'ien in the second century before Christ, and which brought China for the first time into touch with the silver-using countries of the west. At all events, from this period onwards, *yen*, silver, becomes the ordinary word in use to express money, and the tael is for the future the accepted unit of weight.

The tael so adopted seems to have remained fairly con-

stant, and there was little change from the old standard, apparently about $1\frac{1}{3}$ ounces avoirdupois, say 583.3 grains, except a slight drop to 579.85, which has continued the monetary standard ever since, as against the mercantile standard of $1\frac{1}{3}$ ounces which still forms the basis of the mercantile system of the catty, $1\frac{1}{3}$ pounds avoirdupois, and its multiple, the picul of 100 catties, or 133 pounds. The tael of account, as explained, differs locally according to allowances and fineness, but these are eventually all reducible to the standard, and are constant. Thus the Shanghai tael, the best known as coming into foreign commerce most frequently, is found to weigh 568.25 grains of a fineness of $\frac{916}{1000}$, and so actually contains 520.52 grains of pure silver. The official tael, in which duties have to be paid, and known as the Kuping or Haikwan tael, is actually money of account, containing, whatever may be its fineness, 579.85 grains of pure silver.

Toward the end of the sixteenth century Spain annexed the Philippines, and this had a temporarily disturbing influence on finance. The Chinese have themselves in all ages felt the inconvenience of their primitive system of currency and would have eagerly welcomed such a change as would have resulted in a settled system of coinage. The example of what had been done by one government after another with respect to the bronze coinage, and its persistent decline both in weight and purity, was not reassuring; and, anxious to have some system of payment on which they could depend, and which would not be subject to sudden and arbitrary fluctuations, they declined to accept any of the schemes offered, and preferred the older system of bullion payments, which were guaranteed by the chop of some association under their own control, and in which they could have confidence. Hence arose a system of banking which in China, before all other countries, at an early period

became closely associated with the business instincts of the Empire. In return for the undoubted advantages offered by the banking guilds, there was the undoubted disadvantage that the banks in time became dissociated from the merchants, and to suit their own ends kept up those local distinctions which have ever been an incubus on the international trade of the Empire. The Chinese had to weigh disadvantages, but on the whole they have felt that the interests of trade were better subserved by having a trustworthy and responsible intermediary in the banks than by placing themselves in the hands of an irresponsible government against which there could be no redress.

When Spain annexed the Philippines, an opening seemed to present itself for the introduction of a settled system. Spain had acquired during the preceding century the countries of Mexico and Peru, both rich in the precious metals, and a considerable flow of silver set in toward the home country. The possession of the Philippines diverted this across the Pacific to Manila, which from its convenient position with regard to China and Japan soon became an important centre of trade, and Spain was proportionably enriched. With a continuous stream of silver constantly arriving, the mints of Spain were kept busy, and Spanish dollars became the common coin of the world, and many of them found their way to China. Here their purity and uniformity made them general favourites, and for a time they became almost the current coin of the land. It is interesting in this connection to quote a pamphlet issued in Shanghai by an anonymous writer in 1856: "When this port was opened to foreign trade in 1843, it was found that here as at Ningpo, and at the great commercial centres of Soochow and Hangchow, a short way in the interior, the Carolus dollar had long

been in general use. Much of the smaller business of buying and selling in shopkeeping was transacted in it, although the great staple articles of the native trade here, such as pulse, raw cotton, cotton cloth, etc., were still bought and sold, not by dollars as the gauge of price, but by taels of silver. The progress of the dollar in banking business had been more rapid and decided, — the notes in common circulation for the most part specifying dollars. Thus both dollars and ingots of silver were in current use here, and most of our first sales were for payment in *sycee* (uncoined) silver at the premium of the day."

Consequent on the decay of the Spanish monarchy the supply of silver fell off. Still, however, toward the end of the eighteenth century large quantities of dollars bearing the effigies of the two monarchs, Charles III. and Charles IV., found their way to the Far East, and from their uniformity of weight and fineness entered largely into the trade of China. From the device, borne on the reverse, of the fabled Pillars of Hercules, they came to be familiarly known as "pillar dollars," and they formed an important element in adjusting the balances of trade then largely in favour of China. With the revolt of her South American colonies Spain ceased to take any appreciable part in the commerce of the world, and, the supply of silver for mintage rapidly falling off, the stock ceased to be renewed, and no more pillar dollars came to China to make up for the ordinary wear and tear of the coin. To quote again the pamphlet referred to: "For a number of years little inconvenience was felt, although as compared with the copper coin of the country the Carolus dollar gradually rose in nine years from being worth 1150 to about 1500 copper cash.

"The increasing quantity of them gradually drawn off into the adjacent silk districts, as well as the tea districts

of Anhwei, not to mention the quantities occasionally exported to Canton, etc., fully accounted for this rise. During the same period the value in sterling of the dollar, or the rate of exchange on England, had varied between the limits of 4*s.* and 5*s.* 6*d.*

"Such had been the state of things prior to 1853, when rebellion, with all its train of horrors and disasters, burst upon central and northern China, deluging the land with blood and spreading ruin and desolation far and wide. Then, since on the one hand the Carolus dollars were eagerly sought for by the terrified people, as the most convenient form by which a certain well-known value could be represented and secreted for future use, and as a consequence of the unnaturally stimulated demand rose to a price far above their intrinsic worth, — and on the other hand the sale of every kind of import except opium was almost at a stand, the inevitable result was an unprecedentedly high rate of exchange on England. Since the troubles began in 1853, this rate has fluctuated between 5*s.* 7*d.* and 7*s.* 9*d.*, the present rate being 6*s.* 4*d.* One may thus estimate the Carolus (pillar) dollar, judging by the rate of exchange on England, to have averaged twenty-five to thirty per cent higher than its previous average value."

The effect of these disastrous conditions on the trade of China, already suffering from the severe fluctuations of exchange, was marked, and commerce languished. An ineffectual effort was made to supply the deficit in the favourite medium of currency by the introduction of the new Mexican dollar, bearing as its device, on one side, the "cap of liberty," and on the other an eagle strangling a serpent, and an attempt was made to force the new coin into circulation as the equivalent of the old familiar "pillars." The attempt, after a firm refusal on

the part of the banking guilds supported by the weight of public opinion, to accept the new coin, except at its intrinsic value, was wisely abandoned. Up to this time (1856) accounts by the foreign mercantile houses and the foreign banks had been kept in Carolus dollars. Foreseeing the danger to commercial interests lying in the further use of a rapidly disappearing coin as a standard of account, the market rate for the Carolus dollar being now equivalent to the Shanghai tael, the banks and foreign merchants acting in concert determined to change the unit. Accordingly, on a prearranged day, every bank and every merchant doing business in Shanghai changed the headings of all accounts from dollars to taels, the figures remaining the same. No difficulty was experienced in the alteration, and the local tael has continued satisfactorily the standard of buying and selling ever since. The actual intrinsic value of the two was in the proportion of 72.43 to 100, the Carolus dollar having thus attained to a premium of upward of twenty-seven per cent.

The convenience of having a coin of fixed value in purchasing and selling by retail caused the general introduction of the new Mexican dollar for ordinary local use, and the two — dollar and tael — have since found their place in the local market concurrently; in exchange quotations the dollar is quoted daily in terms of the tael, the clean, unmarked coins (chopped is the local word in use) being generally at a slight premium over their bullion value, and the two coins, old Spanish and new Mexican, are practically identical in intrinsic value.

Causes similar to those that brought about the first appreciation of the Carolus dollar, namely, the cessation in China of imports owing to the devastation of the Taiping rebellion, and, in addition, the enormously increased

demand in Europe for silk, brought about by a strange epidemic disease to which the silkworm suddenly became liable, and which at one period was so serious as to threaten the entire destruction of the crop, increased the silver requirements of China to an unprecedented extent. The price of the Shanghai tael of silver at the rate of 5*s.* per ounce amounts to about 5*s.* 7*d.*; it actually rose to 7*s.*, and for a series of years continued over 6*s.* 4*d.* It so happened that at the same period France showed a disposition to introduce a gold coinage, her chief medium of currency having up to this time mainly consisted of silver five-franc pieces. The new coin was of the value of twenty francs, and was known as the napoleon. The French people took kindly to it, and the government took advantage of the demand in China to get rid of enormous quantities of these old coins, which were converted into bullion and shipped to the East, to the mutual satisfaction of both countries.

The demonetization of silver in Germany after the war of 1870 threw still greater quantities of that metal into the market, while the opening of the new mines and the cheapening of the cost of production had a marked effect all over the world; and from this period a steady decline in the price of silver as compared to gold set in, which continued practically unchecked for thirty years, and has, as a result, brought about an entire reconstruction of the China trade. After the events in north China in 1900, the European Powers imposed heavy penalties on China, which by means of a nominal loan bearing interest, and a sinking fund, were spread over a long series of years. China, to enable her to meet the strain, was to be permitted to raise her duties on foreign imports; but, inconsistently, while the interest and sinking fund were to be annually paid in gold, the duties from which funds for

payment were to come were stipulated to be payable only in silver. The result, which seemingly neither side had sufficient knowledge of finance to foresee, was a panic in the silver market and a drop in the Shanghai exchange market to 2*s.* 2*d.* per tael, the lowest point ever touched. Since then there has been a tendency to rise to more medium rates.

As a matter of fact, silver has at all periods in the Far East had a tendency to be overvalued with reference to gold. By general consent prior to the eighteenth century silver was looked upon both in Europe and Asia as the more "stable" metal, and so became practically the universal currency. This disposition was even more marked in the Far East. There are few means of ascertaining their comparative values in ancient times; probably they differed much at various times and in different localities, and the task of seeking to reduce them to anything like uniformity would be hopeless.

During the Middle Ages in Europe the relative cost of gold as compared with silver seems to have remained fairly even at from 10–12 to 1. In the sixteenth century, in consequence of the discovery of America and the opening of the rich mines of Mexico and Peru, the value of the precious metals in Europe underwent great changes, and the purchasing power of both gold and silver greatly fell.

Their relative values also changed, and the ratio increased to 14 to 1, and before the close of the century to 15 to 1. In the eighteenth century it was pretty constant at the latter rate. By the middle of the nineteenth century the ratio had risen to about 15½ to 1; since when it has fluctuated, rising about the beginning of 1902 to nearly 44 to 1, and is now, 1904, about 35½ to 1.

In Asia, and especially eastern Asia, the proportion has never risen so high. In 1627 we find their agent at Ban-

tam thus reporting to the newly established East India Company, who wished to extend their trade to China, and had entered into a tentative arrangement with the Dutch : "In China is no coin current, neither gold nor silver. The common people usually go to market with small pieces of silver sold by weight, which they proportion according to their measures. The rial of eight (Spanish dollar) is there worth seven *copongoes*, thirty-six or forty whereof will buy a rial weight of the purest gold." This would make the ratio $5\frac{1}{4}$–$5\frac{3}{4}$ to 1. This again agrees with what was discovered to be the actual ratio on the reopening of Japan, when the value of the gold and silver coins in current use was found to be under 6 to 1.

I do not propose to go into the recent history of the currency in Japan further than to point out that after the Empire had become actually denuded of gold, the government was finally compelled at considerable expense to adopt a gold standard. In like manner the recent startling variations in silver quotations in China are slowly but steadily driving that Empire to adopt the gold standard.

China, it is interesting to observe, has at all times been a gold-exporting country. It has long been known that large deposits of gold occur in the range of mountains stretching from north of Peking along the northern boundary of Korea as far as the Sea of Japan. The government of the country has ever discouraged the mining of gold, and what has been raised has been done surreptitiously. Notwithstanding this fact, large quantities of the metal find their way annually to the treaty ports, where they form an important item in the lists of exports.

CHAPTER XIII

LAND TRANSIT

VAST and far-reaching as are the waterways of China, they are not sufficient to meet the demands of the internal commerce of the Empire. This deficiency had been met in the far distant past by the cutting of great highroads which linked such portions of the dominions and colonies of China as were unapproachable by water. By searching the pages of history prior to the destruction of Carthage by Rome, we find that for the purpose of keeping his caravan roads open to the southwest of Asia, the Emperor Wu Ti found it necessary to break the power of the Turkish Empire in the regions of the Kara Nirus. The great diplomat and general, Chang K'ien, was despatched to the limits of Asia and the eastern borders of Europe as ambassador, accompanied by an imposing staff, to open up trade relations with the west by caravan over the "excellent" roads then in existence. But he was captured and imprisoned by the Turks. So enraged were the Emperor and his people at the violation of the sanctity of the ambassador that the wars commenced which ultimately broke the power of the Turks in the Kara Nirus country and made them seek outlets farther west.

The Chinese gained a commercial influence in the Tahai country (three hundred miles north of India), to which a broad road was built, and established trading missions in this country, as well as in that of the Yuehti, and with the northern tribes of Tibet. Such mis-

sions could have no other result than the spread of knowledge concerning the Chinese merchants and their wares, and the bringing of them into contact with those other past-masters of trade, the Parthians, who had perfect roads constructed across their country, some fully four hundred miles long, reaching from Samarkand to Sarangia, and thence to the sea-coast near the Tiouchi country. Thus, with the excellent horses of the Urh Shi, which, according to Parthian accounts, were the finest in Asia, they kept up carriage communication between east and west Asia. This being the case, one might well ask, "Where are the roads of yesterday?" as there does not exist to-day in China a highway of any length which, to the western mind, could be termed a road.

About a century before Christ there were four great roads leading from Peking through Szechuan via Mang, Yen, Tu, and Kungpak. The southern road was continually set upon by the Kwenming (a tribe of robbers), until the Emperor Wu Ti through various generals with large armies defeated these lawless bands and established the sacred principle among them that trade and diplomatic missions must be free from molestation. The civilization of the Wu Ti era was evidently more advanced than that of Kwang Hsu, under whom it was permitted that the legations in Peking be attacked and a minister murdered in 1900. To show the Oriental idea of trade mission, I will quote the following from a paper by T. W. Kingsmill: "When the first Chinese envoy arrived in Parthia, the King (Mithridates II.?) despatched a general with 20,000 horses to meet him on the western frontier. On the way they passed some ten cities. The inhabitants were all of the same race and very numerous. On the return of the mission he sent envoys with it that they might see the extent and power of China. He sent with them as

presents to the Emperor eggs of the great bird (bustard?) of the country, and a curiously deformed man from Samarkand."

The trade roads were great arteries of China trade to the northwest, west, and southwest; but that to the west was the easiest, best, most remunerative, and most used, as caravans passed and repassed regularly to the countries beyond, and one may gather that the trade was carried for the most part in carts, since with respect to one primitive expedition we read that the Emperor sent men skilled with carriages (carts?). "In little more than a year there marched out of Tunkwang a force of 60,000 men, not including army followers, accompanied by 100,000 cattle and upwards of 30,000 horses, besides 10,000 mules, asses, and camels, all well supplied with fodder. . . . Men used to the management of vehicles were sent to join it at Tunkwang, and two cavalry officers well skilled in the management of horses were attached as instructors in horsemanship, to take back the Shen horses after the capture of Yuan." We find that the roads over which these armies marched were good and levelled.

I make use of these incidents to show the importance of roads in the minds of the Chinese for commercial and military purposes, even in remote ages over two thousand years ago.

It is really only since the alien has sat on the throne of China that all means of communication by water and land have been permitted, like all other institutions, to become corrupt and dilapidated. As the rule of the Turk in Egypt destroyed all the useful monuments of its commercial people, so the Manchus have obliterated all indications of commercial advancement in the territories they conquered. Nowhere is this more apparent than in the

gradual disappearance of roads, which until the last couple of centuries were rivals of the ancient Roman structures to be found at this day in England.

So great, indeed, did the expert caravan trade of China become by the beginning of the first century before Christ that "westward as far as the Lob Nor (Salt Water Lake) resthouses were established. At Luntow a hundred agricultural officers were appointed for the purpose of encouraging the cultivation of millet and corn to supply the caravans on their way to or from foreign countries." (From the history of Sze-Ma Tsien translated by Kingsmill.)

In the south the ancient trade roads from the Yangtse through Yunnan into Assam and Laos across high mountains were, according to ancient records, comparable with anything of the kind in the Empire in its most glorious days of overland commerce. But these have been allowed to fall into such decay that they may be said to have disappeared completely, leaving only foot-paths and goat tracks. Such a state of things could have but the one result, namely, the death of Yunnan as a trading province, in spite of the fact that this province may be considered the father of the mineral resources of China. There is no possibility at present of working the marvellously rich gold-bearing crystalline granites to the south of the province, near the Burma frontier, owing to the fact that all machinery must be carried by pack animals or by porterage over these mountain tracks. In the north and west of China, where water transit is not as convenient as in the south, middle, and eastern sections, we find portions of roads that would compare with those in any part of the world, but they are found only in short stretches. These portions are where the roads have been hewn out of the solid rock of the mountains over which they pass. The

celebrated traveller, De Guignes, remarked in the accounts of his journeys, "I have travelled near six hundred leagues by land in China and have found many good roads, most of them wide and planted with trees." This description could well apply to many of the roads in Shansi and Shensi, as well as in the hill regions of Shantung, where the military roads were originally well planned and have been kept in many places in reasonable repair.

Owing to the consistent lines on which the sections of roads cut in the mountain rock run, it is quite apparent to any observing traveller that they form a regular trunk system of highroads for either military or commercial purposes, and were at no distant date well maintained in the provinces north of the Yangtse valley, particularly in Kansu, Mongolia, Manchuria, and that district of Chili north of the Great Wall known as Jehol (Hot Rivers).

Baron von Richthofen, "China," says of the roads of Shansi: "The great roads from Peking to the southwest and west pass through all the chief towns of this province, and when new probably equalled in engineering and construction anything of the kind ever built by the Romans. The stones with which they are paved average fifteen inches in thickness. Few regions can exceed in natural difficulties some of the passes over the loess-covered tracts of this province, where the road must wind through miles of narrow cuts in the light and tenacious soil."

The construction and maintenance of roads in China is considered an immortal virtue by the people. Who, in travelling through, or approaching a town, has not seen a tablet or monumental stone, at the side of the road, describing the many immortal virtues of him by whose means that road has been constructed? Such a one on

his death becomes the recipient of posthumous honours if accounts of his good deeds reach the imperial ear.

So important is the question of roads in China that the central and provincial government budgets contemplate the raising of funds annually to be expended on the construction, improvement, and maintenance of military and trade routes, as well as the deepening, widening, and general care of creeks in those provinces where the latter take the place of roads. It is owing to the corruption and indifference of the officials, who, coming from other provinces, have no local interest in the conditions and facilities for traffic, that these are only too apparently neglected, and the money which should be spent thereon finds its way into the official private purse.

Where a particular official has a desire to be somewhat less dishonest than his brethren, his ignorance regarding general matters of administration prevents the greatest use being made of the funds set apart for the improvement of communications within his district. His want of knowledge enables the one actually conducting and supervising the work to make enormous squeezes without any check whatsoever from higher sources.

Although roads of the western standard may be said not to exist in China, it is the greatest possible mistake for those unfamiliar with the country to think that they cannot travel by road. They can in certain sections of the country travel for many miles on excellent roads, which, however, are abruptly intersected at times by gaping chasms caused by the rain washing little rivulets in the route. These not being attended to or repaired soon become broad gullies or stream beds, rendering traffic impossible. On the other side, again, the roadway may be excellent, only to become impassable once more farther on. The Peking, Yungping, Shanhai-

kwan, and Kinchow highway, excellent in portions, furnishes an instance.

There is a fine caravan road from Peking to Yarkand in Chinese Turkestan, and thence to Kashgaria and Bokhara. This road can be traversed throughout its extent by carts, though it lies across stiff mountains, and the journey is a long one, occupying four months. There is one most difficult pass, which the Chinese regard as a strategic position against western (Russian) aggression and hold with a large garrison who are supposed to keep the country round about quiet and the caravans free from molestation by robbers. These soldiers, however, are as obnoxious to trade as are the robbers.

Another road branches south from Yarkand through Ladak or Little Tibet and on to Kashmir. The route, though hilly, is good and can be made in less than a month, though goods caravans take three times that period in pursuit of orders and barter of goods. There is a perfect road through dense wood, full of all kinds of large and small game, between Yarkand and Oksu, which can be covered in less than twenty days. All these roads from Yarkand are kept in order by the natives of the countries through which they pass and are not the concern of the Chinese government. Hence the difference between them and those in China proper. On these roads the Chinese carry on to this day an extensive trade.

A personal observation of their methods of dealing with creeks for navigation may indicate to the casual traveller the lines on which all structural and remedial works are and have been approached during the days of the present dynasty, and may give an impression of the reasons for the condition into which the roadways have been permitted to lapse.

The Chinese are more or less students of nature in its varying forms, and they learn much from it in the abstract; but the seeming lack of reasoning power disqualifies them from taking full advantage of such lessons as nature gives. For instance, they observe that the banks of a river prevent the water flowing over the land. Reason does not impress them with the fact that the river current has cut down into the earth to make a bed for the stream, and that the natural bank so made is always stronger than an artificial bank. Therefore they say to themselves, as banks keep in water and we require creeks to water our crops as well as navigate our "rice boats," we must build banks, and so make canals. This is a very excellent idea, but what is the fact? After a small and narrow cutting has been made for a creek bed and the material therefrom piled on either side for the foundations of the banks, the face of the surrounding agricultural fields is scraped down a couple of feet to build up what are called "flood banks." In a country like China, where most of the creeks are cut in the delta formations of the great rivers or detrital plains, these creek beds get silted up with a dense deposit of mud, and, with continual scrapings of the fields to repair the banks, these same fields get far below the level of the creek's bed. This means destruction to the rice and grain lands should the creek's banks burst in time of exceptional flood, as was the case in the time of the deplorable Yangtse floods in the year 1900. In the same way the Chinese reverse the order of the West in the construction of their roads, which instead of being built up above the surrounding level are cut below it, so that in the rainy season these roadways rot and become rivulets, if not regular mud creeks.

It is astonishing that in a country where there is so much honour and reverence for the ancients and their

teachings, those teachings should not be taken to heart by the present generation of Chinese, and therefore such ancient monuments as the Great Wall, the Bamboo Palisade, the ancient trade roads, and the canals be allowed to fall into bad repair, if not out of use entirely. This, however, is the case, and it is an illustration of the contradictory nature of the Chinese.

So little respect have they for such ancient monuments that in the country or province of Confucius the poor agriculturist whose plot lies along the roadway thinks it very good business (*pidgin*) to steal as much as possible of the highways (even those made under the Emperor Hwangti, 2637 B.C.) by digging a couple of feet into his land each year, and this going on for a few years ends in converting a thirty-foot military road into a coolie carrier's footway on which it is almost impossible for two bearers to pass each other. This state of things has actually taken place at Weihaiwei since the British occupied the harbour and the surrounding country for a radius of ten miles. There was as little protest from the enlightened British governing officials as there is usually from the same class of Chinese, so that now the British taxpayer has to pay for the making of fresh roads.

What has occurred in the matter of stealing may easily be seen in many districts where the cultivated lands are adjacent to rocky hills. Only the narrowest roads or footways separate the former and lead to the hill highways of excellent quality, which, under good engineering plans, have been hewn in the solid rock, gradually winding their way up the hillside until the wide pass is met and then down a slow, winding descent on the other side. Wherever rock has been cut away, the amount removed has been utilized for filling up any crevices, fissures, or gaps met with in the ascent or descent.

Nearly all these mountain roads are of a width to permit the passage of at least two Chinese long carts, and sometimes on the bigger trade routes as many as four, of the same class of cart, can move abreast even in the high mountain passes. In nearly all the mountain passes along the trade roads of north China there may be seen what appear to be shrines to some god or other, and there are many travellers and writers who have called these shrines, but they are only partially correct. These large structures with stone seats along the walls were not originally miniature temples; though they may now maintain mendicant monks of the Buddhist or Taoist faith, they were built as mountain guard-houses to protect the travelling caravan and the belated merchant caught in the pass by the approach of night. Careless of everything, even the protection and development of trade, the Manchu rulers of China have for purposes of economy withdrawn the trade-road guards from these hill stations. The night-beset traveller, however, can still find these desolate buildings a resthouse, without comfort but with the doubtful companionship of a Buddhist or Taoist priest, who is more often than not in league with the bandits and highway robbers of the neighbourhood. It were better for the traveller did he pass by this uninviting abode; but if he remains, he should only eat and drink that which is cooked by himself or by his own servant, and never accept the smoke offered him by monk or nun lest worst befall him. Many of these past guard-houses are still to be seen, though greatly dilapidated, in the provinces of Fukien, Chekiang, Kiangsi, Hunan, Hupeh, Kansu, Shensi, Shansi, Shantung, the regions about the Great Wall and to the north thereof; and in Manchuria these passes, curiously enough, have a better reputation and are less ruined than in other parts of China.

Williams, in his "Middle Kingdom," writes, "The public roads, in a country so well provided with navigable streams, are of a minor consequence, but these media of travel are not neglected." It would have been better if this high authority had said that "these media of travel are not wanting," as they are very much neglected indeed, and but for culpable and even criminal neglect on the part of Manchu officialdom, the ancient roads for China's inland and overland trade would still be among the finest in the world.

The roads that are not cut into the rock over mountains and through mountain passes are generally paved with long slabs of granite or other hard stone, like the Ningpo agglomerate, which stretch right across the width, or half the width, of the fairway. The slabs generally measure seven to twelve feet long, by eighteen inches wide and twelve to fifteen inches thick. Where the roads are not slabbed on the surface in this manner, they are bunded with such slabs, and the intervening space is well set with cobblestones or old brick fitted on edge and making different patterns. Few people in the world can compete with the Chinese in cobbling in this manner, as to both finish and rapidity of work; but in spite of the rapidity it must have taken a very long time and much money to complete many of the existing roads of this type. Instances of this class of road are not wanting in any part of the country. Much of the one hundred and twenty mile road built between Nanking and Fungyang by the founder of the Ming dynasty, Hung-wu, was of this class. This fine piece of road engineering was in many places fully twelve feet above the surrounding country, and, with funds, can be repaired into one of the best means of transit in the country, as it is over twenty-five feet wide in general, but in places as much as forty feet wide.

Another great paved road was the Hangchow-Chengtu, but, as in all the others, the paving only remains in patches.

In the north of China, after official neglect, frost, wind, floods, and the sharp, heavy wheels of the carts are the worst enemies of the highroads; but the transit merchant cannot be expected to improve his cart or cart wheel until the roads are better, and these present wheels only make tolerable roads soon intolerable, by cutting deep ruts, which help the frost and wind to pulverize the ground, and then the floods wash away these light portions.

As the region of any large waterway is approached the roads become impassable, owing to the effect of floods and official neglect. In the delta, or detrital plains formed by many rivers emptying themselves into the Gulf of Pechili, the routes run over this light soil, which at times is battened down into hard mud tracks, sometimes hundreds of yards wide, particularly in the salt plains of Chili; owing to the aforementioned reasons they become very rutty and most uncomfortable to travel over at any time, and in particular the road from Tsinanfu in Shangtung to Peking via Tehsien and Hohsien, becomes, during wet weather, when the air is moist and very hot, a veritable morass, in which the cart animals sink and are sometimes drowned.

Owing to the light nature of the soil and the enormous traffic on the roads there is a layer of dust in dry weather nearly a foot thick, and this, when disturbed by pushing hoofs, makes travelling of any kind anything but a pleasure, and this discomfort becomes magnified if one travels in carts.

I have mentioned the disintegrating effect upon the roads of frost, wind, cart wheels, and floods, and the continuity of these injurious agencies gradually works the roads down until they become flood conduits, and ulti-

mately nothing but gully beds, containing ten to twelve feet of water during the summer months, and then road traffic has to be entirely suspended. In the northern provinces such is the effect of summer floods that no attempt is made to transport merchandise for over two months, and in the frost-zone areas traffic is again suspended when the ice and snow begin to melt.

In the regions round Newchwang the subsoil of the roads has no binding qualities and is so light that for six weeks on end the roads were and are deep marshes, so much so that it is a common sight to see a cart, with the six or eight animals which pull it, gradually sink and the animals drown in the general highway. The Russians, since their occupation of Manchuria, including Newchwang, have done much to improve the roadways, which had lapsed into an impossible condition for trading. Throughout the main road of the foreign settlements and at the back of the British Concession they have improved the cartways as well as the footways. In the centre of the thoroughfare they have laid down large slabs of granite across the road, and though this makes excellent but noisy carriageways, it was their intention, prior to the outbreak of the Russo-Japanese war, to have left these slabs as a firm foundation on which to build up a macadamized highway similar to the highways they have constructed in other parts of Manchuria for military purposes.

It is not an infrequent thing to see carters, when the regular road is too bad, starting to make a new road for themselves over the adjoining fields which are not blessed with hedges or ditches. When passing along, one may often see a deep, wide rut cut, and the excavated clay piled up on one side by a farmer in preparation for the sowing of his crops. This is done to signify that traffic must cease over this portion of the field, but such hints

generally go unheeded, and the carter goes whither he will, a custom more noticeable amongst the Mongolians north of the Great Wall, as they do not engage in tillage themselves, and have little real respect for those that do.

Improvements in roads throughout west and southwest Chili are now more generally engaged in since the untoward events of 1900, after which there was the hasty imperial flight to Hsianfu. This was accomplished over the dilapidated tracks relegated to the trader, carrier, and coolie porter under ordinary circumstances. The return journey, however, was not so arduous for the royal travellers, as each official through whose district the journey had to be made, had to see that the road was put in perfect condition and that suitable imperial resthouses were erected at the different stages wherever these resthouses had been allowed to fall into decay; but where they still existed, large sums were spent on the necessary repairs.

In connection with the return to Peking it is interesting to quote from the Code the regulations regarding trespass upon the imperial highways or roads.

"No person shall presume to travel on the roads or cross the bridges which are expressly provided and reserved for the use of the Emperor except only such civil and military officers and other attendants as immediately belong to his Majesty's retinue, who are in consequence necessarily permitted to proceed on the side paths thereof. All other persons, whether civil or military officers, soldiers, or people, who presume to travel on the roads or to cross the bridges aforesaid, shall be punished with eighty blows."

This ancient decree would have closed the ancient highway between Hsian and Peking by reason of its being specially repaired for exclusive imperial use during

the royal return, but the Empress Dowager's clemency prevented any harshness being shown to those accustomed to make use of it.

Another imperial highway is that from Peking to the western Mausoleum and Ancient Ming Tombs, where the Emperor travels at the time of the "Festival of the Tombs," and this highway is always kept in good condition.

The roads of Chili, both within and outside the Great Wall, running north, northwest, and west, and southwest, are reasonably good for a country not boasting of roads. That to Yungping and Shanhaikwan and thence via Kinchow and Hsinmintun to Mukden and Kirin is a fine trade route, except during the summer floods, on the stretch which crosses the valley of the Liao Ho. The branch of the same road going north to Tsitsihar is broader and better, but cannot boast the same patronage from traders and carters, though they number many thousands at the end of the year for each route; road traffic cannot be carried on for more than nine months of the year in Manchuria and eastern Mongolia.

A branch of this road strikes off from Yungping and meets the Peking-Hsifêngkow road at the latter place, which is the gate in the Great Wall near the waters of the practically unnavigable Lau Ho (Blue River). This road passes from here on to Pah Kow or Ping Chuen Chow and thence throws out branches to east, north, and west, the latter of these going to Chengtefu, the capital of the Jehol, and thence on to Fengninghsien and the Dolonor, Ta Lama Miao, or Great Lama Temples, in the Geshirten district of Mongolia, dividing here again into four flourishing Mongolian transit routes, where continuous lines of camels may be met crawling along at little over three miles an hour and sometimes at not so rapid a

pace. There four roads lead, (1) to Urga, Kiaktah, and the Baikal; (2) to Borza and Nerchinsk; (3) to the Dalai Nor and Argun head waters; (4) to Khailar and the Argun head waters. A branch of the Urga road, which is a great tea and camel's-wool route, passes the Ulan Nor and thence through western Gobi to the south of the Khangai range.

The middle road from Pah Kow or Ping Chuen strikes north to Chefenghsien, where it in turn divides,—a branch going west along the Shilikaho until it reaches Liang-pootien, then south of the Imperial Hunting Park, Wei Chang, to the Dolonor, while another branch follows to the waters of the Liao Ho northeastward for eighteen miles, and then strikes in the same direction across undulating plains as far as Hsin Chang, where it crosses the Sungari on its way to Harbin; and this for many centuries has been one of the most famous military and commercial roads of the Empire. It is open practically the whole year, as it crosses most of the waterways except where it follows the head waters of the Liao for the above-mentioned eighteen miles. There are numerous rich trading towns along the road and an immense population engaged in grain-raising, distilling, bean culture and bean-oil and cake manufacture, camel's-wool manufactures, horse and cattle raising, and many other remunerative industries.

The third Ping Chuen road passes east by northeast to Ching Chienhsien, Chao Yanghsien, Hwangninghsien, and then joins the Shanhaikwan-Hsinmintun road at the latter place. This is an important trade road for carrying the mineral products of Pechili through Ping Chuen Chow to the capital, and, as a result of the valuable traffic conducted over it, the hills in the vicinity, at times of disturbance like that of 1900, become infested with bandits.

The native tribes of northeast Mongolia are generally nomadic horse, sheep, and cattle raisers, or hunters and carters. They are the best carters and caravan runners in China, being hardy and knowing no fear. This being their favourite pursuit, they leave the cultivation of the soil to the numerous industrious Chinese settlers.

Another road from Peking passes Tsunhua, Miyuen, through the Kupehkow in the Great Wall, and passing Luanpinghsien reaches Chengtefu and sends out two branches, one direct north to Liangpootien and the other by the Yesuiho (continually flowing river) to Tungtapao, the military station to the east of the Wei Chang. This road and its branches are the imperial highways to the imperial palace of Jehol at Chengtefu and to the imperial hunting preserves known as the Wei Chang. The journey to Chengtefu is supposed to take five days, but even when carts go also, it can be done in three days by forced marching. It is very hilly, but the highway is not in the usual ruined condition, though of course it is not all that could be expected from a royal route. However, it suits admirably the style and methods of Chinese travel. Should the very important towns of Jehol or Chili north of the wall be opened to foreign trade, these roads will have an enhanced interest. In connection with all the roads north of the Great Wall one is tempted to use a striking phrase of Alexander Hosie: "Carts are the railway carriages, trucks, and vans of Manchuria." No expression could better illustrate the conditions of transit in Manchuria and Mongolia.

Since the time of the occupation of Chili by the allied forces in 1900 many exploring parties, both military and civil, have journeyed in the regions to the north of the Great Wall. Their labours have resulted in giving to the world clearer ideas of these regions, in respect both to

history and geography, and to commercial conditions. In no way have they done better work than in giving us some ideas of the trade roads and of the advancing commerce along these highways. The most interesting reports regarding the Mongolian routes have been given by Messrs. C. W. Campbell, C.M.G., and G. J. Kidston, of H.B.M.'s Consular Service. The latter, writing of the section of the road immediately north of the Great Wall, in the direction of Fengning, describes it as "wonderfully good," as does Major H. Goold-Adams, C.M.G. The passes are low but very steep. This route abounds in undeveloped mineral beds, the coal being particularly good. To the north of Fengning there are large areas of rock crystal, some pieces of which weigh over two hundred and seventy pounds. Native gold is frequently discovered associated with the crystal. The coal extracted by the natives of the district is that which outcrops in the hills in irregular or futed seams, is bastard or hydracious, and in consequence poor in quality. The roads from Fengning to Dolonor pass through beautiful cañons and narrow, wooded valleys (the wood being mostly birch, fir, and oak), then through defiles leading to stiff mountain passes, all easy of passage except the last. There is a gradual climb of close upon four thousand feet in altitude to the undulating grass plateau on which the Ta Lama Miao or Dolonor is situated. The priests of the district have as an industry the breeding of the so-called Peking pug dogs and Chinese sleeve dogs, a good specimen of either fetching as much as $1000 (Mexican) or £100. They also breed the large, black, curly-haired Mongolian dog, the skin of which obtains a high price on the London market. The Dolonor itself is about four thousand feet above sea-level, and the immediate vicinity of this squalid home of the filthy Lhama (Lama) is nothing but the *blekets*

of sand on which rest numerous camel caravans. The animals of one pack frequently number as many as thirty. The first and the last animal carry deep-toned bells, so that if the linking rope severs, the driver is at once made aware of the accident by the absence of the bell in the rear. Besides the camel traffic a large amount of carrying is done on large ox-wagons or carts, some two and some four wheeled. It is not an uncommon thing to see at the Dolonor, as at Chefenghsien, large merchant inns, that is, merchant stores with an inn attached. These are kept by keen Chinese for the benefit of the large traders who come in from great distances to see to the disposal of their wares in these market centres. In the yards of these inns sometimes three or four hundred carts are standing, while all around at the feeding troughs are the mules, ponies, and other draught animals. At the first streak of dawn, if not before, one is awakened from his slumbers by the shouts of muleteers or drivers as they cry to one another while getting ready for the day's journey. They seem to come in at all hours of the night, and after an hour or two of rest and feeding the animals, they take to the road again.

There is a general impression that the Dolonor is a great horse-breeding centre, but it is only a great fair, at which the horses are collected from districts fully one hundred miles distant, and the same is true of the great numbers of sheep and cattle gathered there. Most of the Chinese of this district are Mohammedan. They are about the most businesslike and energetic Chinese to be met with. The lower order of Mohammedan Chinese are unmitigated rascals, and though serving their employer well, rob the country folk on all sides. In spite of this they are the best guides and body-guards the foreigner can secure for travelling in Manchuria and Mongolia.

Mr. Campbell reached the Dolonor by the Peking and Kalgan road. Kalgan, situated on the Great Wall to the north of the province of Chili close to the Shansi border, carries on a greater caravan trade than does the Kupehkow gate, owing to the better road between it and the capital and to the fact that five great Mongolian trade routes converge on it. It is to be regretted that this town, and some of the other gates in the Great Wall are not opened as treaty ports permitting of foreign residence. The importance of foreign trade doors on the natural trade routes of the country cannot be overestimated and should not be lost sight of by the home governments or the ministers in Peking. In this connection Mr. Campbell says: "Kalgan as a residence for foreigners dates from the early sixties, when firms interested in the tea trade took advantage of the special privileges conferred by the Russian treaty of 1860 and established agencies in Yuenpaoshan to facilitate the transport of their teas across the Gobi to Urga and Kiakhta. Since 1865 Kalgan has been a prominent station of the American Board of Foreign Missions, and the occasional residence of English and Swedish missionaries, whose labours are specially directed toward the conversion of the Mongols." From Dolonor Mr. Campbell took a circuitous route, evidently not one of the great China-Siberia trade roads, as there seems to have been little traffic and less interest until he reached Urga. Here there is a Russian consulate, the nucleus of a Russian settlement, and a considerable Russian trade. There seems to be no other western nation starting settlements here, in spite of the most favoured nation clauses in the treaties with China.

Mr. Kidston's road lay to the west of that travelled by Mr. Campbell, and was evidently the one better adapted to the advancement of foreign trade in these regions. This

would be very great, were some of the large trade centres opened to the residence of European merchants and commercial agents, who could enter upon business partnerships with native traders to their mutual advantage.

With the spread of Chinese agricultural migration in the virgin districts of Mongolia and the Jehol, and with the construction of a railway between Peking and Kalgan, these Mongolian trade routes will become better known, and their advantages for foreign trade will daily become more apparent.

The recent history of Manchuria has brought that country very much into public notice. The march of armies has revealed to the sit-at-home trader that in the garden of China there are roads, and very excellent ones, in existence, which have, however, been very greatly improved under the military domination of Russia. These roads are a commercial asset very much valued by the Chinese trader in his dealings with the country northeast and east of the Liao Ho during the autumn, winter, and spring. The flooded waterways serve his purposes during the summer months. Thousands of carts, both large and small, with great teams of oxen, or seven or eight ponies or mules, cover these roads during the above-mentioned seasons. They bring the heavy products of native agriculture and industry to the navigable waterways, there to be stored until it is possible for native river-craft to carry their quota to the nearest distributing centre associated with foreigners, and return with what the foreigner has to vend. In the hill-country, where stone is to be procured, the roads would compare favourably with any of foreign construction ; but in the river valleys and plains they are execrable mud routes, sometimes a quarter of a mile wide. The deep ruts cut by the wheels of the style used on the carts, are a great danger to travel, as a cart is liable to

stick on one side, and then turn over with the weight of its contents. As Hosie says, "the nature of the roads has led to the building of carts capable of withstanding the bumping and jolting to which they are constantly subjected." But it is the style of cart used which has brought about a great deal of injury to the roads.

The old military road from Heichang to the Yalu at Kiulienchang and Antung is as fine a road as is to be met with in the country, and is much used for the lumber trade. Such heavy traffic has the effect of cutting up the road, but it has generally been kept in good repair by the Chinese officials. It is joined at Shataokang by another excellent section from Liaoyang, which, however, has to cross very high mountain passes south of the great pass of Motienling (twelve thousand feet high), which is itself on the broad road from Mukden to Fenghwangtien and Antung. Another fine trade road — infested, however, with *hunghutsz* (red-beards), or bandits — is that from Mukden east through Tsiaotzetien, Kien Changmien, Hweijenhsien, to the head waters of the Yalu and the Korean town of Chasong. The broadest, best, and most thickly populated route from Mukden to northeast Korea is that through Fu Shun, Sarlin, Singking, Hwangtsingmen, Tunghuahsien, Maochr Shan, and south of the Chan Pai Shan to Samsui and Kap San. All these roads east pass through one of the richest mineral countries in the world; and this country has, by reason of its wealth, excited the greed of two powerful military nations, who, since the last decade of the nineteenth century, have made every attempt to seize it for their own, finally plunging into a devastating war, which, among other untoward results, has crippled the foreign trade of China just at a time when commercial men were looking for a commercial millennium in the Far East.

The Mukden, Kirin, Hunchun trade route is a most prosperous and busy one for carters, and acts now as a feeder for the Chinese Eastern Railway. It is daily growing in importance, with large towns increasing in size and number through the influx of Chinese immigrants from Chili and Shantung, whose surplus thousands find here a virgin field for their labours and trade. These settlers are daily ousting the old Manchu owners of the soil, and by an extraordinary trade evolution are conquering, by commerce, industry, and agriculture, the land of their military conquerors after about three centuries of subjection.

All the northern and northeastern roads of Manchuria are camel as well as cart roads. The camels, carrying loads of one thousand to twelve hundred pounds, cover a distance of twenty miles a day. That from twenty to thirty of these camels form a caravan, of which fifty may be met in a day's march, gives some idea of the trade of Manchuria and Mongolia with China along the overland routes. In the flat country a stage for a cart is thirty or thirty-five miles a day, and, with from six to ten ponies or mules, it carries a weight of one and one-half to two tons. The cost of camel transport in these regions comes out, roughly, at about 7 to 10 cents, or 1½ to 2*d.* per ton mile; but by mule or pony cart it is from 4 to 7 cents, or a little over ¾*d.* to a little under 1½*d.* per ton mile. In the stretch of country between the Dolonor and Liangpootien and Hatah (Chefenghsien) and thence to Mukden large quantities of buckwheat and the extraordinary large single-husk oat of Mongolia (*Wei chang yu mi*, or Wei Chang oil grain) are seen. This oat is particularly free from damping, and should be introduced into foreign countries. Most of the grains, owing to the difficulties of transport, are converted in the large grain stores

into native spirit, as this is the most remunerative way of transporting the products of the field. The spirit is made in pot-stills of a primitive style, and, as there is no such process as redistillation, the yield is a vile decoction, full of fusil oil, sold at a few cents a bottle. Were any foreign firm to invest capital with a Chinese grain merchant in these regions, and distil on scientific principles, he would not only reap a remunerative reward from the native trade, but could put the best whiskey on the European or American market at one-third the present price, in spite of duties and freights, such is the cheapness of the best classes of alcoholic grains and labour.

Another industry that might be taken up by foreigners associated with Chinese is that of an abattoir and canning establishment in the regions where cattle can be procured at less than $20 (Mexican) or £2 a head, where at present the cattle are driven overland from the fattening regions, always falling off in condition with the length of the road. If a bone-tallow factory and tannery were associated with an abattoir at Hatah (Chefenghsien), a great boon would be conferred on this immense trade centre, and the founders would be repaid. Similar establishments at Liangpootien and Dolonor would have a like result.

In the rolling plains to the north of Hatah over one million head of cattle and thirty thousand sheep are reported by natives to be raised annually, and these have to travel overland to the consumption centres, south of the Great Wall, for a market, though the Mongols, taken generally, are a meat-eating people.

The military roads of Shansi and Shensi are to this day very fine, being broad, well drained at the sides, and planted with trees. They wind through picturesque valleys and over mountainous passes, and their route is

lined with the remains of ancient centres of industry and trade. These are only waiting for the lifting of the alien pall, which has suppressed the energy of the ruled throughout China, to resume their historic greatness. The Peking-Shansi road dates back two thousand years, and like all the roads of the western provinces, shows skill in conception and execution. Portions, however, have degenerated into river channels and cultivated areas. The continuation of this route into Szechuan offered considerable difficulty, particularly the sections over the Paishang (White Pass) and the Hwai River. But the skill of those early engineers overcame all difficulties in a manner well set forth in the *Penny Cyclopædia:* "For the difficulties it presents and the art and labour by which they have been overcome it does not appear to be inferior to the road over the Simplon."

Williams gives a fine description of this work. "At one place on this route, called Linai, a passage has been cut through the rock and steps hewn in both sides of the mountain from its base to the summit."

NOTE. — I have been materially assisted in the preparation of this chapter and the chapters on water and railway transit by Mr. Charles R. Maguire, a mining engineer, whose extensive travels in China have qualified him to verify many of the routes described. It gives me pleasure to make this acknowledgment.

CHAPTER XIV

WATER TRANSIT

EVERY facility that law can give is permitted under passport to those desiring to travel on land and water in the interior of China, and consequently it is of more than passing interest to investigate the natural and artificial facilities afforded for travelling or trade between different towns, districts, and provinces.

If the natural facilities afforded by the navigable waterways be first considered, then it may be said that China, of all countries in the world, is most favoured. In this direction Williams's phrase, "The rivers of China are her glory, and no country can compare with her for natural facilities of inland navigation," puts an accurate appreciation of the advantages of the Empire in the briefest and neatest of descriptive word-painting.

To the Chinese mind the history and geography of the country's rivers is of far more importance than the age of the Empire or its numerous dynasties.

It is unfortunate that home exporters and their agents in China know so little about these great rivers and waterways which offer such facilities for the advancement of their special interests, and I therefore purpose giving a short description of them in the order of their importance, and of the trade centres which they feed.

The Yangtse River is navigable for river boats for fully seventeen hundred miles out of three thousand miles of length. At all seasons it is navigable for the greatest

ocean-going steamers for two hundred miles of its length ; that is to say, from Nanking, once the southern capital, to its mouth Kiang-kou. The river may be considered uniform and deep in its lowest sections, *i.e.* between Hankow and the sea, but is liable to floods which raise it from thirty to fifty feet above normal or winter level.

In the province of Kiangsu few towns are near the river, as they would be liable to inundation during the summer floods. Of course there are large commercial towns, such as Chinkiang, or Nanking, of great importance to foreign trade, on its banks, but these are generally where the banks are more elevated.

Regarding Chinkiang, situated at the junction of the Grand Canal and the Yangtse Rivêr, Mr. Justice Bourne wrote in 1898 : "Conditions are as favourable for the extension of foreign trade here as in any place we visited in China." But with regard to the area of the concession he says : "The limit of expansion seems to have been reached, and it would be much to the advantage of both her Majesty's subjects and for the natives if a settlement were marked out that would give room for manufactories and the preparation of raw material exported." At the same time he wisely advocates that this system, rather than that of concessions, be adopted at the treaty ports for the reasons stated, since otherwise British (foreign) merchants will never settle up country, and "without them the country can never be opened up to our trade."

Wuhu, in Nganhui (Anhwei), has a considerable trade in piece-goods, but Kiukiang has even greater promise of trade expansion with the interior of Kiangsi, where shallow-draught steamers are employed on the Poyang Lake and the waterways, Kiukiang and Kanho, which drain into it. Two feet six inches of water may be relied upon the year round as far as Nan Chan Fu, and never less than

two feet as far as Kian on the Kanho, but as much as twelve feet can be obtained during summer and early autumn to a point (Kan Chow) much farther south; a total distance of over three hundred miles navigable for small craft. Conservancy would increase the navigation prospects and the productiveness of the country bordering the Kan. But in Kiangsi innumerable *likin* barriers exist to the crippling of foreign trade; these, however, according to the American and English treaties with China, are to be removed, when considerable expansion may be expected.

Above Hankow the towns on the Yangtse lie nearer the river, the banks of which, being generally higher than those near the mouth, keep the floods within limits, and prevent inundations affecting the towns. Besides this father of waterways there are its large and only slightly less important tributaries, all more or less open to steam navigation by vessels of the river-steamer type. One of the largest, and for trade purposes the most useful, of these is the Kankiang, in the province of Kiangsi. By its means the Yangtse-carried goods pass south to Kan Chow, a distance of over three hundred miles direct, by vessels which vary in carrying capacity from four hundred tons up, and which load from the big river steamers at Kiukiang, a treaty port at the junction of this river with the Yangtse. The next tributaries of importance are the sister rivers, the Siang and Yuan, which empty their waters through the Tungting Lake, and open navigation facilities to small river boats, by which may be tapped the trade of the rich and thickly populated province of Hunan and the more distant mineral and grain resources of Kweichow province. The products of these two provinces are reshipped at the treaty port of Hankow, at the junction of the Han and Yangtse rivers, a city well

described by some writers as "the future Chicago of the eastern world."

The great tributary from the north, the Han River, is the next in importance, not only from its navigability, but from the richness and prosperity of much of the district through which it flows, the province of Hupeh, rich in iron, copper, coal, zinc, lead, antimony, platinum sands, black tin, nickel, cinnabar, silver, and, in places, gold. On the river Han there are large and important towns in which considerable native manufacture is conducted, and which are thus rendered most desirable and profitable markets, such towns as Laohokou, 140,000 inhabitants; Fanchen, 100,000; and Hsiang Yang, 40,000. The traffic on this river is mostly by junks, or lighters towed by small steamers, though shallow-draught steamers, capable of carrying a good deal of freight and many passengers, can and do ply on its waters. The current is very strong in summer during the floods, and consequently for up-stream traffic what is required in a steamer is power rather than speed.

The next tributary of any navigable importance is the Wukiang, which taps the more important trade of Kwei-chow province from the towns Sze Nau, Tsungyi, Hsih-chiu, and Tating, as well as, indirectly, the capital Kuiyang. Small native-owned steamers and towed lighters bring up and down the goods between these towns and Chungking, population 1,000,000, the treaty port at the junction of the Yangtse and the Kailingkiang, which latter is an important tributary, little less important, commercially valued, than the Min River, which joins the Yangtse farther west at Suifu, where there is an average rise of the waters during the annual summer floods of about forty feet.

Very large junks in the flood season ascend the Min

River as far as Kiating, at the confluence of the tributary Tungho, about eighty miles above Suifu. Above this, however, irrigation works have destroyed the navigability of the river for large boats, but have caused considerable increase in transit facilities on innumerable creeks and canals for small-boat traffic, particularly in the immediate vicinity of the provincial capital, Chengtu, where many of these canals connect the Chungkiang with the Min. Chengtu, dating back to the third century before Christ, has a population of 600,000, more or less, but there is no reliable estimate, although these figures may be taken as fairly accurate. If to this be added the report by Consul Litton, that "near Chengtu, for forty miles in every direction, the country is one huge village," which may account for his estimating the population as 1,000,000, then the usefulness of these canals for trade purposes will be readily appreciated.

Navigation is carried on at times of flood as far north as Mao Chow, in river boats of six or seven tons' capacity, and to near Sungpan in very shallow boats drawing nine inches loaded. This town is a fairly prosperous one, the best merchants being Mohammedans. Enormous flocks of sheep are raised in this vicinity and sold at about $1 to $1.25 (Mexican), say, 2*s.* 9*d.* to 3*s.* 6*d.*, though when bought in large quantities they may be procured at little over 2*s.* per head, and thereafter their uncleaned wool sells at ¼*d.* per pound on the local market.

At Chungking the flood rise averages over sixty feet, and it has been known to rise to ninety feet, while at Ichang it averages thirty-five, with a possible rise to fifty-three feet; at Hankow the average rise is over thirty and sometimes exceeds forty. Between Ichang and Chungking lie the Yangtse Gorges, where the floods may rise above one hundred feet.

The Kailingkiang is joined close to Ho Chow, sixty miles from Chungking, by the waterways Foukiang and Kukiang, on both of which is carried on a considerable junk trade, which trade would be vastly increased by the employment of shallow-draught steamers or stern-wheelers. Though there is no definite industrial enterprise at Ho Chow, its trans-shipping trade, with a population of 60,000, is extensive, and where there is such a trade, there is generally a large boat building and repairing business. It is a great coal mart, in which mineral there is an extensive trade, as the coal is of good quality, though small and dusty, owing to the primitive mining methods adopted by the natives. The main river, Kailing, above Ho Chow, is broader than below, and traffic is greatly impeded by numerous detrital sand-banks scattered over the stream. These banks are bound together by a coarse, rank weed, and after a time form islands, or part of either river bank, which can be and are cultivated by the natives.

The ancient market-town of Shun Ching, with a population of 40,000, is situated in the midst of a silk district on the Kailingkiang, about sixty miles north of Ho Chow; a fair amount of boat traffic is carried on in boats whose carrying capacity is about seven to ten tons, a very few carrying more than this. Another sixty-five miles farther north is the salt city of Nanpu, the salt being transported in boats to the central market-town of Paoning, twenty miles farther north. This latter city with a population of over 20,000, a great proportion of which is Mohammedan, is undoubtedly prosperous.

Kuang Yuen, about two hundred and eighty miles from Chungking, near the junction of the Pai Shui and Kailingkiang, may be considered the limit of navigation, as the boats or junks which ply so far north have at most a carrying capacity of three tons, though their actual start-

ing-point is from the borders of Kansu, at a town called Pai Shui Chiang on the Pai Shui Ho, about fifty-five to sixty miles away. On this latter very shallow mountain stream may be seen a few shallow-draught boats and rafts propelled by poling or tracking.

The Foukiang is navigable for junks of seven or eight tons' capacity, for about one hundred and forty miles as far as Tung Chuan, a large market-town in the midst of a rice, millet, maize, and silk raising area, and having large flocks of sheep grazing on the adjacent hills. As the natives know or care nothing about sheep-washing, the wool is very dirty and consequently does not command so large a price as its long and fleecy fibre would justify. This town is a market for the raw silk brought down in shallow-draught boats from Lungan.

Of all the treaty ports on the Yangtse and its tributaries Hankow is the most important, if exception be made for Shanghai, which is not on the Yangtse but on the Hwang-pu, a tidal creek to-day, but formerly one of the many mouths of the Yangtse. If Shanghai is the emporium for ocean-carried goods, Hankow has a similar position for all goods moving along the great river between east and west, and for the trade overland between north and south. Next comes Kiukiang, then Chinkiang, after which must for the present be placed Wuhu, until such time as it regains the important position it held prior to the Taiping rebellion. Then comes Ichang, the place of trans-shipment from steamer to junk, followed closely by Chungking, where the river is three hundred yards wide and has an average of thirty feet in depth.

Mr. Justice Bourne, in his consular report, 1898, says, "Hankow is the greatest centre of distribution in the Empire and must have a great future when China's resources begin to develop." The greatness of Hankow

is only in its infancy. The countries supplied with foreign goods from Hankow are, (1) the northwest, including the provinces Hupeh, Shensi, Kansu, and even Kashgaria; (2) the southwest, including Kweichow and Hunan, and, to a lesser degree, Szechuan.

The Blackburn Commission considered Hankow, owing to its position and proximity to the valuable waterways mentioned above, the Siang and Yuan rivers, to be the most suitable centre from which to develop the Lancashire trade with the province of Hunan, which province they considered one of the most promising fields in China, owing to its richness in useful minerals, in agriculture, and above all in the hardiness, enterprise, and industry of the inhabitants. "When the minerals are worked, this may well be the richest region in China." This commission strongly recommended the opening of Hsiangtan, where boats drawing three feet can arrive at all times, as the most suitable treaty port for Hunan, as at that time the province was without that convenience for trade. An immense trade passes between Tungting Lake and the Yangtse.

On the whole, no river in the world offers the advantages to navigation in area afforded by the Yangtse and its subsidiaries, "which render the whole basin accessible as far as the Yalung." In one of Mr. Justice Bourne's reports, 1898, he states: "The Yangtse regulations to which foreign trade and shipping have to conform are utterly obsolete and require revision." If foreign trade demands such revision, then no time should be lost in bringing it about, and the governments should be held responsible for criminal neglect until this has been accomplished.

Another important natural waterway, from the point of view of the merchant, is the Canton or West River, Hsi

Kiang, which rises in the east of the province of Yunnan and, having meandered at will through the valleys of this large but undeveloped province, enters the populous province Kwangsi, at its northwest corner, near Loping, and with an irregular course flows in a direction nearly southwest through the province until it enters Kwangtung near Wuchow. It empties into the sea, one hundred and eighty miles farther east, where it is known as the Chukiang or Pearl River. This river, with its tributaries, drains a region which cannot fall short of 130,000 square miles, — nearly all the country east of the Yungling and south of the Nanling ranges.

By the Burma Frontier Treaty the treaty ports Samshui and Wuchowfu were opened in 1897, and the following ports of call were established on this valuable trade river, Shinhing, Kanchuck, and Kongmun.

The river is navigable for three hundred miles of its length for river steamers of large carrying capacity, and by small boats for about nine hundred miles on the Ku Chow River, after which rapids are met impeding any navigation. Boats of three-feet draught reach by the Ku Chow River almost to the borders of Kweichow province; but above Hsem Chow there is the Lutau rapid impeding steamer traffic until the submerged rocks shall be removed, after which it should present no difficulty. Compared with other rivers of China, three hundred miles of navigation does not seem much, but that great distributing centre, Hongkong, gives it a very great importance as a commercial river which enables the teeming populations of the "Two Kwang" provinces to obtain by cheap water transit the unloading of the western products in that British territory.

The numerous *likin* barriers on this river have been brought to the notice of merchants by the Blackburn

China Commission in their report, 1898. The report says: "It would not be using too strong an epithet to describe as criminal the policy that, so far from utilizing to its utmost capacity as a medium of communication the waters of such a river as the West River, by a pernicious fiscal system so harasses merchants that they are compelled to get their goods to the large towns on its upper waters by a circuitous overland route." This barrier to the development of British and American as well as European trade generally no longer exists, thanks to the new treaty between the United States and China by which *likin* is abolished, its place being taken by an increased maritime customs duty.

The same commission, in its report, gives a most interesting item of commercial importance with regard to transit facilities as follows: "It is a fact not generally known and one that illustrates vividly the wonderful waterways of the interior of China, that it is possible to start from Shanghai and proceed by boat up the Yangtse to Hankow, thence across Hunan to the head waters of the Siang River, where a canal is cut uniting with the head waters of the Kuikiang, past Kuilin, the capital of Kwangsi province, down to Wuchow, Canton, and Hongkong, — a round tour of some fifteen hundred miles by water the whole way." The importance of this water communication cannot be exaggerated, and becomes apparent when it is stated that by this means merchants, carrying on business in the districts or prefectures in the south of Kiangsi and north of Kwangsi, are enabled to draw their supplies by water from both the great distributing centres, Hongkong and Shanghai, with comparative ease, and such routes being competitive tend to reduce the cost of transit to these remote regions. The existence of the above route has long been known to

travellers, but may come as a revelation to the treaty-port trader.

The Amur, Sagalien, Kwangtung, and Hehlungkiang, under its various names, — generally typical of its "black water," which is the distinction the Chinese bestow on a clear river, in contradistinction to a yellow or red river, names typifying muddy waters, — is of course one of the great natural waterways of China, but its use as a commercial highroad is minimized by the fact that it comes within "the great frost-line," that is to say, it is closed to commercial traffic by the prevalence of ice from November until about the middle of April, although in favourable years it is open at the end of March; this is not the rule but the exception. This means that traffic is really restricted to the months from May to October.

The Amur or, as it is sometimes spelled, Amoor, with its great tributaries the Ingoda and Argun, its other tributaries the Shilka, Ussuri, and Sungari with its tributaries Nonni, Hurka, Mayen, Tunni, and Hulan, is one of the most wonderful, most imposing, not to say, most historic waterways in the world. It waters an agricultural Garden of Eden in its course east from Baikalia through old and new Manchuria, but little use has been and is made of the power of its current to manufacture such products of the earth as are cultivated in its vicinity. In parts of its course the bed gets very broad and becomes studded with islands and sand or mud banks, which form a serious barrier to navigation. The regions to the south of this river are about the richest in the world in mineral resources, forests, game, etc., and when once it is decided to make the earth yield these fruits of creation, then the importance of the Amur and its subsidiary streams will become better known to the world in general. The navigable portion of this river, and that of its great tributaries, combined, would amount in

the summer and autumn to between two thousand and three thousand miles. For many years its interest and importance has been mainly political rather than commercial. On the tributary, the Sungari, navigable for six hundred and forty-three miles, a considerable native traffic is conducted from Kirin, scarcely one hundred miles from the mountains in which it rises to the south, to its junction with the Nonni, one hundred and twenty miles down the river, that is to say, north-northwest of Kirin. This section of the river has a navigable channel about nine hundred yards wide and over twelve feet deep at ordinary times but during the summer torrents and floods both the width and depth are considerably increased. This in turn gives place to a bend running northeast for a short distance where the bed is over a mile and a half wide, with a general depth of three to four feet; but, according to native accounts, it is intersected by an intricate navigable channel about eight feet in depth. From Harbin to Sungsing, at the junction of the Hurka and Sungari, the river narrows to about a mile or three-quarters of a mile in width and has a navigable channel of eight to ten feet deep at lowest water level. From this on, to the junction with the Amur, the Sungari is one of the most beautiful rivers of the world, and is a fast-running, navigable waterway through varying and picturesque scenery. With the one exception of the short strip above mentioned, the river from Kirin to Novaia offers enormous advantages to transit enterprise, as, for instance, to shallow-draught river steamers and powerful tugs and launches for towing heavily laden lighters and native craft.

Harbin, on the right bank of the Sungari in the province of Kirin, may be said to be a town of mushroom growth, very much like Dalny in this respect, and has replaced the old market town and caravan exchange on the left bank

of the Sungari, namely, Hulantien. It is a Russian town about one hundred and eighty miles within the Manchurian frontiers, and in the plan of its construction, its artificial facilities for trade, the concentration of the various markets within its compass, and the numerous industrial works, such as railway workshops, sawmills, flour-mills, etc., which have been called into existence within a comparatively few years, it calls for the fullest admiration of the Russian pioneers who conceived and achieved this colossal work in so brief a time. There are really two towns here, a Chinese and a foreign, with an aggregate civil population of little less than 200,000.

Between this most important town and Nuan and Harbarovsk the Chinese Eastern Railway Company (Russian) have a fleet of three large steamers and about twenty tug-boats engaged in towing heavily laden lighters, and even this fleet can only cope with a very small percentage of the transit trade.

Kirin is a walled town, stretching for fully two miles along the left bank of the Sungari, and is the capital of the province of the same name. It is a great boat-building centre, possesses an arsenal, powder-mills, has a great local and district trade in charcoal, though large coal-fields exist in the neighbourhood, which are only burrowed or tunnelled in the usual Chinese way, where outcrops are found amongst the hills; this class of coal, being surface material, is rolled and inferior, and burns rapidly. Consequently there is the general impression that Kirin coal is not worth mining, but there could not be a greater mistake, as borings prove the existence of hard coal little, if at all, inferior to Cardiff coal. Iron abounds in the neighbourhood, and there are numerous native iron-works in the town.

An observant traveller, Consul-General Hosie, estimates

the population of the capital city at about 100,000, but the outlying suburbs increase this total. Along the valley of the Sungari, on its passage through the Kirin province, may be seen numerous native gold-workings, carried on as alluvial washings; and from the turnover, with the primitive appliances at hand, all foreign miners who have travelled in these regions are agreed that it must be one of the richest districts in the world as a gold-mining area. Hosie gives an account of Chinese information showing that one native company produces, as the result of a few days' work, gold to the amount of three pounds avoirdupois. He also states that Kirin coal is sold in the capital at from six to twelve shillings a ton according to quality. Fine coal is produced about twenty-five miles from Tungchiang, which is carted across to Kirin and is used on the steamers and tugs on the Sungari and Amur. Lead, silver, and copper are also worked, and the manufactured product transported over this waterway. A large transport of pine and elm logs from the Chan Pai Shan (Long White Mountain) and from the forests along the river banks, continues on this river throughout the summer months; the timber, being felled in late autumn and winter, is cleaned and ready for transport to Harbin or farther north and northeast as soon as the ice breaks and the river is open to navigation.

With the exception of the aforementioned towns the only one of importance in the valley of the Sungari is Tsitsihar or Puk'usi on the Nonni, the large tributary joining the Sungari on its left bank. This town is the capital of the Hehlungkiang province. The river on which it is situated is navigable from this town to the Sungari by large junks and towed lighters, and by boats of light draught for another one hundred and eighty miles upstream as far as Mergen.

Tsitsihar itself was at one time a most important town on the direct caravan road between the fur districts of the Lake Baikal region and those of Korea round about the Yalu and Tumen rivers. This importance was at one time in a fair way of disappearing, but owing to the construction of the Manchurian section of the "Trans-Siberian railway" its ancient glory would appear to be returning; sawmills and flour-mills have sprung up on the banks of the Nonni in the immediate vicinity of Tsitsihar, and the busy appearance of the streets, flooded with industrious Chinese instead of the former slothful Manchurian inhabitants, speaks well for the future mercantile value of this city, situated as it is in a maiden valley where there is little difficulty in raising grain or any other crops. There are some camel's-wool carpet, camel's-wool felt, and bean factories, etc., in this town, completely run by the ignorant Chinese. Such factories add to the importance of the navigation of both the Nonni and Sungari as feeders of the shipping traffic of the Amur.

The next most important tributary of the Amur is the Shilka, which wends its way through valleys wooded with pine, ash, elm, birch, and beech to the water's edge or through deep-cut gorges where rock cliffs tower hundreds of feet. As a natural waterway its importance can be appreciated when it is said that in conjunction with the Amur, these two form a stream navigable for steam traffic for fully 2130 miles, that is to say, from Nikolaevsk at the mouth of the Amur to Stretensk, and, according to Hosie, sometimes as far as Metrofauor, which would add close upon another one hundred miles to the navigable bed. The navigable channel of this lengthy waterway is marked, lighted, and buoyed, and the Russian government has taken every possible means that engineering can recommend, to safeguard navigation thereon and improve the

navigable bed. Most of the steamers that ply on this river burn wood, of which there is an abundance on either bank. Great piles of this fuel are noticeable at the river stations. Of course coal could be used, but the rich deposits in which Manchuria abounds have not been developed sufficiently to meet the demand. The Shilka, during the earlier weeks of May, is generally so shallow that navigation is most difficult and uncertain, but later, in June and July, when the water rises, vessels of from six to ten feet draught encounter no difficulties. At all times the narrows, from eighty to one hundred and fifty yards wide, have sufficient water.

The Russian government has made most elaborate surveys of the river and of the surrounding country. It is to be hoped that here, as in many other parts of the world, especially in America, tillage may in time beat back the frost-line.

The valley of the Shilka is an extensive horse, cattle, and sheep raising area. The transportation of the live stock is effected by means of broad, shallow-draught lighters, and sometimes by means of rafts — a clever device by means of which the industrious Chinese bring both cattle and logs to the markets and sawmills down the river.

Nearly all the towns on the Shilka consist of squalid, wooden houses, and are filthy in the extreme. They are of little importance, and many of them are only temporary stations which serve the purpose of coaling or, properly speaking, logging the passing steamers.

Very little less important than the Shilka is the sister river, the Argun, navigable for a distance of four hundred and sixty miles from its junction with the former. There is a certain amount of historic importance attached to this river, as in the year 1689 it was made the boundary between the Russian and Chinese empires in that portion of

their adjacent territories. In Article I. of the treaty it was stipulated: "The country south of the Shihtahsing, with all its rivers and streams entering the Amur, shall belong to China, and the country to the north of the range with its rivers and streams shall belong to Russia." Article II. provides: "The Ergune or Argun River which falls into the Amur shall form the boundary. The south bank shall belong to China and the north bank to Russia." In all the subsequent treaties delimiting boundaries in the years 1727, 1768, 1851, 1858, 1860, and 1881 the river Argun, or Ergune, is acknowledged as the boundary of Manchuria on the northwest by both the signatory powers.

The district watered by the Argun is naturally fertile, but is practically uncultivated. However, large herds of cattle, sheep, goats, donkeys, mules, ponies, Mongolian camels, and Mongolian black curly dogs raised by the nomadic Mongols in this region are transported into Russian territory, and particularly into the Baikalia districts.

On the Amur itself there are a large number of prosperous towns which would act as distributing centres for foreign goods were it not for the treaty of Aigun, 1858, the first article of which declared the waters of the Amur, the Sungari, and the Ussuri open to the navigation of Russian and Chinese vessels only, thus excluding the vessels of foreign countries. Whether this article of this treaty can stand in face of the most favoured nation clauses of our treaties with China and with Russia remains to be seen when the development of Manchuria justifies raising the question. As it is, the Chinese Eastern Railway (Russian) with its subsidiary and allied companies maintains a fleet of fully one hundred and twenty steam vessels of different descriptions on the Amur and its larger tributaries. All these companies are Russian, or under Russian control. I

have dwelt at length upon the Amur, its tributaries, and navigation, because the value of these waterways is, generally speaking, little known, but they bid fair in a few years to attract world-wide commercial attention.

The river next in trade importance is the Peiho. Until 1900 steamers were able to navigate as far as Tientsin only with great difficulty. The untoward events of that year, however, and the Tientsin Provisional Government brought about the long-demanded work of Peiho conservancy. Since 1901 the work of conservancy has proceeded apace, and in little more than three years three large cuttings have been made obviating the most difficult bends of the river, and greatly facilitating traffic. Now coasting and river steamers proceed up on the flood-tide and discharge their goods at the Tientsin Bund. There is still, however, the "heaven-sent barrier," or Taku Bar, which acts as an impediment to traffic. The water on the bar at low tide marks four to six feet, and consequently vessels reaching it after the flood have but poor chance of crossing — hence Li Hung Chang's expression, the "heaven-sent barrier." Any vessels unfortunate enough to be caught at the bar at low water must lighter their cargoes, which increases considerably the expense of freighting.

It is a fact not generally known, or not generally remembered, in the midst of the rapid march of events in China during the past half century, that Tung Chow, and not Tientsin, was the great junk port for Peking in the pre-treaty days, the Peiho being navigable for large junks of one hundred to one hundred and fifty tons' capacity as far as Tung Chow, distant only twelve miles from Peking. Smaller river junks or sailing boats could at one time proceed up to Sunhua, or Shunyi, thirty-five miles farther north. This, however, was during the days when the Heiho (Black River, from its freedom from brown mud)

was a tributary of the Peiho (North River). Owing to the damage annually done to the hinterland of Tientsin by the floods, a French engineer was employed to report a scheme of conservancy to Li Hung Chang. This engineer stated that the trouble came from the great flood waters of the fast-flowing Heiho, that by diverting the waters of this river into the Peitangho the flooding of the Tientsin hinterland would cease, but that the Peiho would gradually silt up and become almost impassable to traffic owing to the formation of silt bars at its mouth. Despite this warning, Li Hung Chang persuaded the Emperor to issue a decree saying, "Let the work be done." It was done, and the clear waters of the Heiho passed through the Heiang cutting and joined those of the Hanho, both losing themselves in the rapid and deep Peitangho, which latter empties itself into the Gulf of Pechili, ten miles north of Taku. The ability of the engineer, as well as his appreciation of what must result from cutting off the scouring head waters, has only too amply been manifested in the condition of this waterway during the last fifteen or twenty years.

As Tientsin is at the head of that stupendous work, the Grand Canal, it had an importance as a native port long before it was dignified by being included in the category of treaty ports (1860). The older writers, describing the trade of Tientsin and Tung Chow, say that thousands of native junks might be seen discharging their cargoes along the banks of the river for sixty miles. This suffices to indicate the importance of the ancient water transit of the Peiho. To-day, however, this has practically all disappeared beyond Tientsin, owing to the construction of the Peking-Tientsin Railway, and to the shallowing of the river described above. The banks of the Peiho, both above and below Tientsin, are crowded with native villages densely packed with an industrious population.

On the low, flat lands on each side of the river between Tientsin and Taku are great salt-pans and salt heaps or stacks which, being a government monopoly, bring in a large income to the Tientsin native treasury.

Tientsin, being the treaty port, is the town on the Peiho with which foreigners are mostly concerned, and its position as the key to the metropolitan province, the metropolis itself, and to the great northwest of China and Mongolia, gives it an importance as a port second perhaps to none in the Empire. As it is, the trade of Tientsin, particularly with Japan, is developing at a greater rate than that of either Hongkong or Shanghai. During the troubles of 1900 and the subsequent occupation of Chili by the allied troops, the German military engineers linked Tung Chow and Peking with a short railway of standard gauge. This has somewhat revived the boat trade of this ancient port of Peking, but to no appreciable extent. Should, however, this railroad be carried on, as suggested, to Yungpingfu and Chingwangtao, the importance of Tung Chow will undoubtedly revive and improve the trade on this upper section of the Peiho.

At Tientsin there are separate concessions for British, French, Germans, Japanese, Russians, etc. The separate concessions have not, however, been changed into settlements like the Anglo-American at Shanghai.

Owing to the opening of such places as Antung, Tatungkow, and Mukden as treaty ports or foreign trade towns in Manchuria, the lesser waterways of this part of the Empire have acquired an importance not hitherto considered. Of these lesser waterways the Liao Ho and Yalu are the most important, the Liao Ho being the more important commercially of the two. The Liao Ho, under the name of the Lao Ho (Old River), rises in the Wuhumahliang (Five Fox and Pony Pass) about eighteen miles

due north of Ping Chuen Chow in the Jehol districts (Hot River districts). It is soon joined in its course by the Tseo Rao Ho (Little Old River) and continues generally northward for about seventy miles until joined by the Kuntaoho, which diverts it northeast past Tsi Cha toward Hei Sui, where it gets a tributary of this name (Black Water). From this point it becomes navigable for boats drawing two to four feet as far as Ba Cha near the junction of the swollen waters of the Shilikaho (coming from the north of the Wei Chang or Imperial Hunting Park) with the Liao Ho. This shallow-boat traffic has to cease about half a mile from Ba Cha as the river shoals to about nine inches and spreads to over half a mile in width. The junction of the Shilikaho and the Liao Ho is important as limiting the eastern end of the extensive field of hard coal on which the prefectural and market city of Chefenghsien is built. The combined waters increase both the width and general depth of the river which averages in the summer months for the next hundred miles a width of a quarter of a mile. The next natural barrage is met above the confluence of the Yinchingho with the Liao, which here begins to assume the Mongolian name of Sirra Murren. On this stretch many log rafts may be seen going up and down the river. Grain boats are also frequently seen. In spite of the rapid current, however, no use is made of it as a motor power for sawmills or flour-mills. Its next tributary is the Sirha Man Ho, a swift, deep river, of which no commercial use is made at present. The course of the river so far is generally toward the northeast. It carries very little boat traffic owing to the numerous shoals (used as fords), which would necessitate constant trans-shipments of cargo. With very little engineering difficulty these hindrances could be removed, opening up the river to

steam-tug and launch traffic as far as Chefenghsien, a distance of about four hundred miles from Chang Chia Tung, where it takes a southern bend for about two hundred and fifty miles to Newchwang. The great rapid is at Chang Chia Tung, and large junks of one hundred to two hundred tons' capacity must load and unload near this for the market-towns of Changchunfu, Huaitehsien, Fenghuahsien, and Chaoyangpo. About seventy-five miles from its mouth the Liao Ho is joined by the sister rivers, the Hun Ho and Taitzuho, Mukden being situated on the former and Liaoyang on the latter. Newchwang, situated fourteen miles from the mouth of the Liao Ho, was opened as a treaty port in the year 1860 through British influence. On the stretch of river between Newchwang and Chang Chia Tung there are a great number of Chinese, as distinguished from Manchu, market-towns. Besides these there are numerous small villages daily increasing in houses, population, and trade, attributable to the influx of Chinese immigrants from overpopulated Shantung and Chili. The river at Newchwang is from a half to three-quarters of a mile wide, and the town and settlements line the eastern or left bank for a distance of three miles, and extend a mile into the interior. Like all waterways of Manchuria, the Liao is practically closed to navigation from November to the middle of April, though in mild years the port of Newchwang may be open a week earlier. Native boat rates on the river average about 6 cents (Mexican) or 1¼*d.* per ton mile. Hosie puts down Tung Chiangtzu, two hundred miles from Newchwang, as the limit of navigation for trade junks on this river.

As by treaty foreigners now have the right of residing, for commercial purposes, at Wiju, Yong Chong, Antung, and Tatungkow in the valley of the Yalu River, this waterway has assumed an importance little dreamed of in the

past, when it was looked upon only as the natural boundary between Korea and Manchuria. This river is supposed to have its source in the Chan Pai Shan (Long White Mountain) in Manchuria. The weight of evidence, however, goes to show that the main head stream is that locally known as the Sam-su Kiang, which rises in the Paikun San in Ham-yongdo province of Korea. Its source is at a height of 4300 feet above the sea-level. A lesser stream rises in the same province at 4800 feet on Kap San Shan. It receives a great volume of water from such mountain torrents as the Urtaokow, Maochr Ho, Pai Shan Shui, and numerous others coming from the Chan Pai Shan and Maochr Shan. In these regions there are dense forests of pine, elm, ash, beech, birch, and oak.

As already noticed with reference to the rivers of Manchuria, the Yalu is closed to navigation during the long and trying winter. It is three hundred miles long, but is not navigable for junks of greater capacity than two hundred tons above Wiwou, one hundred and twenty miles from the mouth. In times of flood they can go as far as Chasong, another eighty miles, but such transit can only be assured for about six weeks.

The main tributary of the Yalu, the Tung Kiang, is navigable for large junks as far as Hweijenhsien, fifty miles from the junction with the Yalu.

The whole valley of the Yalu offers a fine field for mining development. When the many concessions in the region about Tunghua, Hweijen, and Nen San, held by English and American syndicates, have been exploited, the commercial value of this little-known but important waterway must attract universal attention. Such conditions must result from another direction, namely, the construction of the Seoul-Wiju railway, which at a later date

may be expected to join the Chinese Eastern Railway system at Liaoyang.

The present trade of the Yalu would not justify mentioning it among the waterways of China, yet the opportunities it affords for developing the import and export trade of eastern Manchuria and northern Korea will not permit of its being passed over. Like all the neglected natural waterways of the Chinese Empire, its channels, many of which exist in the stretch of river from Kweiling Chang to the sea, are barred by numerous ever changing sand-banks which make navigation very dangerous.

In point of size, the Yellow River or Hwang-ho, is the greatest of all the natural waterways of China, but from a commercial standpoint it is of little importance. This is not surprising, as throughout its entire vast length the current is faster than that of the Yangtse in full flood, and it is, in consequence, useless for navigation. The strength of this current should make the river of great value in developing electrical power. The Yellow River could provide lighting for all the large cities of the regions drained by its waters, as well as power for the thousands of silk looms throughout the "Middle Kingdom." No attempt, however, has been made by either natives or foreigners to harness its waste waters, except in so far as it is tapped for the maintenance of the level of the Grand Canal.

The artificial waterways of China are many, but one stands out as a historic work, namely, the Cha Ho (River of Flood Gates), Yun Ho (Transit River), or Grand Canal. It is acknowledged that the rivers of China are her glory—then her canals and creeks are the glory of the Chinese, and of all these artificial waterways that which intersects the country north and south from Tientsin to Hangchow stands out as one of the most stupendous

works in a country where great works were the pastime of dynasties, the Grand Canal. In a country like China, full of legend and superstition, no great work like the Grand Canal could have been carried out without some mystic influence, and thus the canal is endowed with a "Dragon King" or genius of the elements, who is supposed to have the canal and its fortunes in his special keeping.

The great Kublai Khan, like some other great men, got more credit than he actually deserved. To him was attributed the credit of initiating this useful work, but much of it was in existence long before the days of this truly marvellous man.

The full reach between the Hwang-ho and Yangtse-kiang was first mentioned during the Han dynasty, and immediately became a great developer of trade between the commercial towns which antedated its construction, or sprung up along its banks subsequently. About the year 600 A.D. it was found that it had been allowed to fall into very bad order, and it was repaired during the reign of the enlightened general who founded the Sung dynasty. When his successors lived at Hangchow, they extended the great work as far as that capital, by the cutting from Chinkiang via Changchow, Soochow, and Kialing. This was all completed before William the Conqueror was born, but it was not until about the year 1289 A.D. that the section between Peking and the Yellow River, south of Tungchaufu, and near Tai Chow, was completed and opened by the Mongols, thus giving an entire navigable artificial waterway of over six hundred and fifty miles — by far the longest in the world. Owing, however, to its varying in depth and width so frequently throughout its length, the through navigation is not what this might be. Few works in the world compare with it to-day, but at

the time of its construction there were none like it. It passes practically throughout its entire length through very light alluvial soil liable to floods from the more rapidly flowing streams, and consequently its banks are in need of constant attention.

For two hundred miles between the Peiho and Yellow rivers its banks have been raised to bring its waters throughout its course up to the level of the Yun River at Kaihochin. The sluices which keep the water at a constant level are of the very rudest construction, but they answer the purpose admirably.

Tientsin, at the junction of this canal with the Peiho, has always enjoyed an importance as a great grain depot, being the station at which was stored all the tribute grain carried over this waterway. Other important stations along its route, which have in the past, and may again in the future, become important market centres, are Tsang Chow and King Chow in Chili; Teh or Tei Chow on the borders of Chili and Shantung; Lingtsingchow, Tung Changfu, Tung Ping Chow, and Tsining Chow in Shantung; Pei Chow, Huaianfu, Kiao Yen Chow, and Ying Chowfu in northern Kiangsu; Chinkiang, Changchow, and Soochow in southern Kiangsu; and Kialingfu and Hangchowfu in Chekiang province. Of these Tientsin, Chinkiang, Soochow, and Hangchow, being treaty ports, are the most important to foreigners. There can be no doubt that the deepening and, where possible, widening of this canal and its subsidiary creeks, so that larger steamers could ply on the waters, would increase enormously the interchange of commodities between foreign and Chinese merchants, and would generally develop the country. From a commercial point of view one of the most important improvement works in connection with the canal would be the widening and deepening of

one or two of the already numerous creeks connecting the Hwang-pu with the Grand Canal and the Ta Hu (Great Lake), and thence the widening and deepening of one of the bigger "rice canals" or creeks to Wuhu. There is no engineering difficulty in the way of such work if the line of the ancient Yangtse mouth be followed, which time and official neglect, together with ill-considered irrigation works in the rice and tea-tree regions, have allowed to silt up to the narrowest and shallowest of creeks.

With the imperial edict and regulations (1898) permitting the navigation of the China inland waterways, the advantages of the canal as a trade route have been opened up to foreigners, who, however, are inclined to let this permission lapse by non-user, like so many other advantages obtained for them by the various diplomatic representatives at Peking. By reason of its falling into bad repair and the changing of the Yellow River's course, nothing like the ancient traffic is carried on by this waterway; but still very large river junks ply up the more navigable reaches, some carrying as much as six hundred to eight hundred tons of more compact goods, and two hundred to four hundred tons of bale goods at a rate of about $\frac{1}{2}d.$ to $1\frac{1}{2}d.$ per ton mile.

Though not actually canals, both the Hwang-pu and Soochow creeks (now tidal waterways, but formerly outlets of the Yangtse) may be looked upon as trade canals on which ply small junks and native passenger boats drawn in train by steam launches. The Hwang-pu, on which is situated that great trade accumulating and distributing centre, Shanghai, is the greater and more important of the two, and the native craft on it are of very much greater carrying capacity than those on the latter creek, which is a continuous source of worry to the

Imperial Customs of China owing to the extent to which it is constantly silting up. Very large towed trains ply between Shanghai and Hangchow by way of the Hwang-pu and Grand Canal. This mode of transit is cheaper than in any other country, but there are the too frequent annoyances of *likin* barriers which interfere with the rapid expansion of trade in this naturally rich country.

Of the lesser canals, that mentioned previously which connects the Yangtse with the West River, by way of the head waters of the Siangho and those of the Kuikiang, though only about twenty-five miles in length, yet offers first-class opportunities for the development of foreign import and native export as well as general transit trade. Consequently, it assumes an importance which under other conditions would not be accorded it. Here again *likin* stations have been a hindrance to general usefulness.

The Lutai Canal in Chili was cut for the purpose of bringing the products of the Kaiping collieries to Tientsin and extends from Lutai to Tientsin native city, where, having crossed the Peitangho, it joins the Peiho. At the time of its cutting it proved a most valuable water-way, but its utility has been to a great extent offset by the construction of the Chinese Imperial Railway by Mr. Kinder, the former engineer and manager-in-chief of the Kaiping or Tangshan collieries. It, however, still carries considerable quantities of coal on large barges, and much grain is transported on its waters at very low rates. Its length is about forty-five miles, but it is both narrow and shallow.

There is another canal constructed by Kien-lung and known by his name. It is about one hundred miles in length and extends from Ifenghsien in Honan to the Hui River in Nganhui, thus connecting the Yellow River with Lake Hungtsze on the Nganhui-Kiangsu border.

Throughout all the plains and delta formations in China are numerous cuttings utilized for irrigation and small-boat navigation, and though they fill a most important need, they are, both in conception and construction, an impeachment, for ignorance, of the descendants of those who had the ability to construct the Grand Canal. Many of these cuttings have practically destroyed the navigability of the waterways from which they obtain their supply of water, and in no place is this more apparent than in the hinterland of Shanghai, where the Hwangpu and Soochow creeks have been injured in this way.

The canalling and creeking of China has increased her water communications by something between 7000 and 9000 miles, according to various estimates, but very little of this length is utilized for steam or larger junk traffic.

River and Coasting Traffic. — The value placed upon the Chinese waterways and coast traffic may be inferred from the number of ships sailing under various flags. There are close upon five hundred such vessels, of considerable tonnage, independent of those registered under the 1898 ordinance for the control of navigation on the inland waterways of China. The foreign-owned coasting and river steamers amount to over seven times those owned by Chinese, but with regard to the small craft plying on inland waterways under the regulations of 1898 the proportion is more than reversed. In fact, the Chinese may be said to control practically the whole of this service, notwithstanding the opportunities it offers foreigners for extending their commerce. The total volume of export and import trade for the year 1890 was H.K. taels 214,239,961 and for 1898 H.K. taels 368,616,483, and this total had swelled in the year 1902 to the imposing figure of H.K. taels 529,545,489; that is to say, more

than doubled in the twelve years between the first and last dates named.

All this increase in export and import trade must affect the distributing and collecting media, which in China at the present time are the ships for coast and river transport. There can be but one result — more coasting and river ships must appear in Chinese waters to handle this increasing exchange of commodities. At the present time and for many years past the British flag has floated over the majority of Chinese trading vessels, but the Japanese have been rapidly eating into this supremacy, particularly in the Gulf of Pechili and Korea Bay. The craft of the latter, though now numerous, are of smaller tonnage than those of their western allies, and in this have in some measure advantage, as they can navigate shallower rivers and push their trade farther into the interior than can the British.

The Japanese stop their vessels at all calling stations not treaty ports, whereas the German and British flags only check at the larger stations and treaty ports on the coast or river banks.

The Japanese, understanding the Oriental customers better than do westerners, are gradually working into a transit trade in China which will, at a later day, justify them in putting larger vessels on the service. Meanwhile their little craft of a few hundred tons' capacity earn good profits.

The oversea shipping is rapidly on the increase to and from Japan, Korea, the Philippines, the Straits Settlements, and the French and Dutch Indies. Vessels are being built locally to meet local requirements, but a definite study of local conditions would enable foreign ship-builders to compete in contracting for coast and river steamers.

In the year 1897 the steamships engaged in the coasting

service and transocean service did not exceed 80,000 tons, whereas to-day one of the local shipping firms could boast of a greater gross tonnage.

The freightage and passenger rates for coast or river journey are, on an average, very low, particularly for Chinese passengers and goods, as they have to compete with those charged by the cheap but slow passenger and freight junks.

At the present day a Chinese company, the China Merchants' Steam Navigation Company, has a fleet of thirty-four vessels with total net tonnage of over 57,000 tons, while another company, Yan Sung and Company, with twelve steamers carry heavy traffic along the Chinese coast and rivers. Of British firms in the coasting and river traffic, one, the Indo-China Steam Navigation Company, with thirty-nine vessels, totals over 59,000 net tonnage. The China Navigation Company with sixty vessels totals over 80,000 tons net. The Chinese Engineering and Mining Company with six vessels totals over 5900 tons net. T. W. Richardson has five, totalling 3900 tons. McBain and Company's five steamers total 3900 tons. Douglass and Company has over 5000 tons distributed over six vessels. In the year 1903 the Russians operated twenty steamers belonging to the Chinese Eastern Railway Company, totalling over 20,000 tons. Six steamers, totalling 5200 tons, belonged to the Mitsu Bishi Goshi Kaisha and carried on a considerable coast traffic, especially in the Gulf of Pechili, while the Mitsu Bussan Gomi Kaisha had twenty-three vessels, totalling more than 12,000 tons. Other Japanese firms engaged in the coast and river traffic of China are the Nippon Yushe Kaisha (eight vessels), the Osaka Shosen Kaisha (six vessels), the Toyo Kisen Kaisha, and the Taito Steam Navigation Company.

Of German firms there are apparently fewer in comparison with ten years ago, but that comes from the larger firms having absorbed the smaller. The Norddeutscher Lloyd operates nineteen steamers on the rivers and coast-line. Melchers has fifteen in the same traffic, Siemssen and Company have five, and Buchheister and Company, one.

The American flag covers the Standard Oil Company's steamer and the vessels of the China-Manila Steam Shipping Company. But up to the present time the American people have not taken upon their shoulders their natural share of the white man's burden in the way of shipping on the coast and rivers of China. British firms stand at the top of the customs list of clearances and tonnage, and among these firms the China Navigation Company takes the lead. The German position in this class of trade is slowly but surely yielding to Japanese energy. French coasting service is a negligible quantity. Germany, in fact, is the only continental European power which has seen the great profits to be derived from the coasting traffic and river transit of China.

From the Chinese Imperial Maritime Customs Reports, 1903, the following local or coast shipping returns show the great coast and riverine traffic which is gradually opening up in China: —

Flag	Tonnage Outwards	Total Tonnage of Clearances	Tonnage Inwards	
	Clearances at Treaty Ports		Entries at Treaty Ports	Total Tonnage of Entries
British	9,321	10,032,542	9,459	10,218,840
American . . .	673	72,014	667	54,460
German . . .	2,358	2,480,206	2,416	2,560,141
French	667	164,446	668	161,007
Dutch	12	13,892	13	15,348
Danish	26	27,136	32	31,435
Spanish. . . .	—	—	—	—
Norwegian . .	236	223,622	254	251,249
Swedish . . .	33	28,870	39	32,694
Russian . . .	324	187,138	316	186,997
Austrian . . .	3	1,854	2	1,236
Belgian. . . .	—	—	—	—
Italian	—	—	1	200
Japanese . . .	2,551	2,523,694	2,581	2,558,180
Peruvian . . .	—	—	—	—
Brazilian . . .	—	—	—	—
Portuguese . .	—	—	—	—
Korean	11	6,996	11	6,996
Non-Treaty Powers . . .	—	—	—	—
Chinese . . .	13,335	4,551,717	13,239	4,540,375
Total . . .	29,550	20,314,127	29,700	20,619,158

The subjoined table gives some idea of the use of this method of transportation as a result of the inland steam navigation ordinance of 1898. In this connection inland navigation means traffic between any ports or stations other than treaty ports, or between treaty ports and these so-called closed or Chinese ports, whether on coast, river, canal, or creek. So that for vessels registered with the Imperial Maritime Customs for inland navigation, which do not trade to foreign countries or ports, the whole

of China may now be said to be one treaty port for the world. And there is no objection to any such steamer being fitted up as a commercial traveller's show-room in order to push his trade under special permit from the Imperial Maritime Customs of China. The vessels registered for inland steam navigation are of three hundred tons and under.

VESSELS REGISTERED 1899 TO 1903

At Treaty Port	1899		1900		1901		1902		1903	
	Native	Foreign	Native	Foreign	Native	Foreign	Native	Foreign	Native	Foreign
Newchwang	—	—	—	—	—	—	—	10	2	24
Chefoo	10	3	1	14	1	76	11	46	4	56
Yochow	—	—	10	—	10	1	1	1	3	3
Hankow	13	5	14	4	11	5	6	1	5	4
Kiukiang	3	—	—	—	—	—	2	—	—	—
Wuhu	2	—	1	—	—	—	2	1	3	2
Nanking	—	—	—	—	—	—	—	—	3	—
Chinkiang	—	5	2	1	—	3	1	7	4	5
Shanghai	40	10	38	10	25	9	21	5	49	12
Soochow	2	—	2	—	3	—	—	1	1	3
Hangchow	1	—	1	—	—	—	—	—	—	—
Ningpo	6	—	6	—	6	2	5	2	6	4
Wenchow	—	—	1	—	—	—	—	—	—	—
Foochow	—	—	—	1	—	2	—	3	4	3
Amoy	8	11	6	16	7	18	7	22	1	6
Swatow	6	8	6	6	6	5	—	—	1	1
Canton	60	22	100	14	45	18	16	12	17	15
Samshui	2	1	22	—	10	1	9	1	11	2
Wuchow	17	—	33	—	19	4	11	5	12	11
Kiungchow	—	1	—	—	—	—	—	1	—	1
Pakhoi	—	—	—	—	—	1	—	—	—	—

The regulations were amended in a special clause of the Sheng-MacKay Treaty of Commerce, and the years 1902 and 1903 show the effect of the facilities therein secured. Still greater advantage was taken generally of the regulations in 1904, but the result is still only a decimal percentage of what might be done by this means.

CHAPTER XV

RAILWAY TRANSIT

THERE can be no doubt that the roads, rivers, canals, and creeks no longer cope with the daily increasing tonnage of the external and domestic trade of China, to which railways must now cater.

Half a century ago Sir Robert Stephenson, recognizing the great potentialities of railway construction in China, hoped to establish a system of trunk railways which would be solely in the hands of the Chinese government. He had the idea that trunk systems were of great military and political interest to the state and that they consequently should be owned and controlled by the state. The feeders or branch lines might, in his view, be with advantage the concern of private enterprise.

Few things in the modern history of China are of more universal interest than those connected with the building and running of her first railways and the rush made by foreign powers and individuals to secure railway rights in China in the closing years of the past century. No expression could put this more aptly than a heading to an article which appeared in the London *Times*, entitled "The Battle of the Railway Concessions in China." Battles they were, but not of war, for these are as a rule clean and creditable, and the battles of the railway concessions in China were accompanied by political and international jobbery discreditable to the pages of the history of foreign connection with China.

Nothing was done at the time of Sir Robert's visit; but in the year of 1876 about ten miles of railway were constructed between Shanghai and Woosung, built close to the Hwangpu, by a British firm. Its life was very short. That potent factor in all things Chinese, *fêng-shui*, was affected, and this line, though it was doing a good traffic business, was bought up by the Chinese, and the rails were pulled up and some engines smashed to appease the votaries of this science or geomancy. The rails and part of the rolling-stock ultimately found a resting-place in the island of Formosa, where a railway was later constructed with the derelict and rusty material.

The Woosung-Shanghai Railway, thanks to certain enlightened Chinese merchants associated with H. E. Shêng Hung Pao, was reconstructed and opened to passenger and freight traffic in the year 1898. At first this line went from nowhere to nowhere. It did not come into Shanghai, as its terminus at that end was on the borders of the Hongkew, or American concession, while the Woosung end finished at the Woosung creek; but since the untoward events of 1900, after which Woosung was made a treaty port and the forts were dismantled, the rail head was pushed across the creek and on to the forts, where at least it is of some use to the shipping anchored at the Woosung roadstead. The traffic is now fair, but when the connection with Nanking is completed via Soochow, Changchow, and Chinkiang, few railways in the world should compete with this line as a paying investment. The British China Corporation have had the concession for this extension, as well as that to Hangchow, in their hands since the year 1898, and it was only in the summer of 1904 that this corporation made any attempt at obtaining a portion of the capital required for construction, although they are aware that the earnings on the Shanghai-Soochow

section would soon pay for constructing the other concession.

In the year 1891 ninety-four miles of railway were constructed between Tientsin and Kuyeh by R. Kinder, the manager at that time of the famous Kaiping coal-mines. The year following the opening of this section of the Imperial Chinese Railway of Chili witnessed the transport of over 488,000 passengers besides much goods traffic. In each year following fully fifty miles per annum, and in some years over sixty miles, were constructed, and trains with thirty to forty coaches were not an uncommon sight, the track passing through very level country.

Until quite recently the central government thought very lightly of the commercial use of railways. Their main object in permitting their construction at all was to facilitate the transportation of troops and war materials, as well as to hasten the influx of grain and other tribute to the imperial exchequer. That the government does not look upon the imperial railways as a profitable industrial undertaking may be assumed from the lax manner in which it permits railway accounts to be kept, without audit or any other check than that of inspection by corrupt officials, who replenish their depleted purses out of the railway's earnings, and pass on.

In the year 1897 the Tientsin line was opened to Feng Tai, about five miles from the Chinese or outer city of Peking. This line, during the foreign occupation of Chili in 1900, was advanced through a breach in the city wall near the Yungting gate to a station in front of the "Temple of Heaven." Under the British Railway Administration Colonel MacDonald, in 1901, pushed the railway track round the southern and eastern sides of the "Temple of Heaven," past the Hatahmen and the historic water-gate of the imperial Tartar city, to the Chen Men,

thus bringing the extended legation area within railway touch of the Gulf of Pechili.

In the year 1901 the German military authorities completed, with material taken from the Imperial Chinese railways, a line from Peking to the ancient metropolitan river port of Tung Chow, on the Peiho. The Imperial Chinese Railway in 1894 advanced to the northeast, past the Great Wall at Shanhaikwan, and threw out a branch in 1900 to Chingwangtao, the ice-free port on the Gulf of Pechili. From Shanhaikwan it extends still northeast to Kupangtzu, passing the extensive Nanpao fields, to which a branch of about thirty miles is laid. At Kupangtzu it sends a branch south-southeast to Newchwang, the treaty port of Manchuria on the Liao River, while the main line continues to Hsinmintun, on the Peking-Kirin caravan route, about thirty-five miles west of Mukden. These lines at Peking, Newchwang, and Hsinmintun, emanating from the central terminus at Tangku, the port of Tientsin, were bonded in 1898 to a body known as the British China Corporation, now affiliated with the Peking syndicate. This bonding was for the purpose of raising 16,000,000 taels with which to complete the line which in 1896 had been checked at the Tolingho, twenty miles northeast of Kinchow. Article II. of the agreement under which the money was raised is most interesting, and reads: "The security for the loan shall be the permanent way, rolling-stock, and entire property, together with the freight and earnings of the existing lines between Peking, Tientsin, Tangku, and Chunghouso, and also the proposed new lines when constructed, in addition to the rights of mining coal and iron, which will be retained by the Railway Administration on each side of the proposed new lines for a distance to be determined. In the event of default or arrears in the payment of interest or repayment of

principal, the said railway lines and mines shall be handed over to representatives deputed by the syndicate to manage them on their behalf until principal and interest on the loan are redeemed in full, when the management will revert to the Railway Administration," and "No further loan, charge, or mortgage shall be charged on the security named above until this loan is redeemed."

The bonds were to bear five per cent interest, and were issued at 90.

Up to the year 1898, a year when progressive ideas penetrated the walls of the forbidden city, railway enterprise was a very doubtful undertaking, and little trust was placed by native merchants in any government-owned mines, while all parties in the central government were animated by the prevailing idea, that if railways were to be built, the intervention of foreign merchants and their capital was to be debarred at any cost. From an international point of view the Railway Bond Contract of the British China Corporation was a great gain to the outer world, as it opened the closed door of Chinese railway development. Whether this prove a permanent opening up of the railroad potentialities of the Empire, in the direction of concessions to alien powers and alien companies, remains to be seen; but it seems to me that the Chinese government would have forwarded its own interests more, had it taken the bond contract with the British China Corporation as a basis on which to find the necessary capital to construct its trunk-lines, instead of alienating wholesale concessions to companies whose very existence bore the stamp of their political origin.

An idea of the political significance to be attached to some European railway concessionaries may be obtained from the following extract from "Greater Russia" by Gerrare: "With a railway in existence from the Siberian

trunk-line to Kalgan, Russia will have a foothold in the Chinese Empire from which it will be difficult to dislodge her. There seems little doubt but that an advance south is intended to meet the northward advance of France in Yunnan in order to cut off British traders on the Yangtse with the Chinese hinterland to the west, the ultimate market of imported goods to Shanghai." The better term would have been Anglo-Saxon traders, as American trade is aimed at as much as that of Great Britain. Thanks, however, to the military political mission under Colonel Younghusband, in the advance on Lhasa and its capture, Great Britain has been able to cry "check" to the Franco-Russian and Belgian Railway mission for closed doors to the west.

In 1896 the Chinese Eastern Railway agreement was signed between Russia and China. This was known to the world as the "Cassini Convention." By this convention it was agreed that Russia should lease certain ports in Manchuria and China and connect her eastern Siberian railway system with these. This was denied, but in September of that year this treaty was announced as a commercial undertaking, without political aims, between the Chinese government and the Russo-Chinese Bank; and on August 28, 1897, at the frontier of Kirin, the first sod was cut in what was to be the trans-Manchurian railway, and what proved to be the excuse for Russia for one of the most cruel massacres in the pages of history, the attempted seizure of one of the richest tracts on the earth's surface, and culminated in one of the most sanguinary wars the world has known.

Then in March, 1898, the important section of the "Cassini Convention" was stripped of all shrouding and shown naked to the world in the Li-Pavloff treaty of Port Arthur, by which this stronghold, as well as the port and

harbour of Talienwan, together with the adjacent seas, was leased to Russia for twenty-five years. Sanction was given to construct the central Manchurian railway from a suitable point on the trans-Manchurian railway to Port Arthur. It was distinctly stated in Article VIII. of this treaty: "The construction of this line shall never, however, be made a ground for encroaching on the sovereignty or integrity of China." Never did words mean less and conceal more, as the Chinese were only too soon to learn, when the Boxer movement was engineered from a mere rebellion into an anti-foreign movement, so that Russia might be given the opportunity of seizing as much of the Chinese Empire, and of Manchuria in particular, as could be secured without her being called to account.

Port Arthur was occupied on March 28, 1898, and in May of the same year work started three miles up the Liao Ho from Newchwang to run a branch line to Tashihchao (Great Stone Bridge), seventeen miles distant, and on its completion, the following year, constructive work on the main line both toward the north and the south was started. About the same time construction was slowly but surely creeping forward from the south, until a construction train was able to pass direct between Newchwang and Talienwan over a line as yet roughly laid. By the spring of 1900 the road had been so far laid that passengers who did not mind roughing it in ill-constructed cars, little better than cattle wagons, could make the journey from Tiehling (forty miles north of Mukden) to Newchwang (over one hundred and sixty miles) or Port Arthur and Talienwan (about three hundred miles). Early in the year 1898 a few scattered houses, a grain store, and a distillery marked a certain spot on the Manchurian plain in the valley of the Sungari, about ten miles to the east of the old caravan rest and inn of Hulantien. Then a

memorable day arrived for that lonely spot eight hundred and fifty versts north of Port Arthur. In the cold, bleak dawn of the early spring morning a steamer came alongside the eastern bank of the Sungari and commenced discharging its load of human freight and railway material. The human cargo consisted of Russian engineers, surveyors, clerks, military guards, etc. There was very little delay in cutting down and conveying timber and erecting log dwellings for these railway pioneers and forerunners of Russian military aggrandizement. The surveyors started at their particular work of deciding upon the lines to be taken by the trans-Manchurian and central Manchurian railways. Meanwhile the engineers were busy laying out the plans for a great settlement, after the style of the western city in the United States, with broad streets on the block system. As house after house sprang up from the ground with mushroom rapidity, there were always new people to occupy them. These arrived as fast as steamers could navigate the Sungari, all bent on the same object of pushing forward the Manchurian railways. In two years the lonely spot was echoing with the hum of the steam saw, the burr of the flour-mill, the clanking of iron and steel. There was a town, Harbin (Ha-ehr-bin), boasting several thousand inhabitants. In 1900 Dr. Morrison estimated the population as over 80,000. However much one may object to Russian policy and Russian corruption, no one who has seen anything of the constructive work of the Russians in Manchuria can long withhold his admiration for their fixity of purpose and the tenacity with which they overcome difficulties and the thorough belief they have in themselves as the instruments of Providence in spreading their civilization in the regions in which they gain a footing.

For rapidity of growth the great railway junction town

of Harbin excels Johannesburg, although its foundations are not made of gold, as in the case of the city of the Rand.

By the end of 1902 Harbin was, in the mind of the mere traveller, only one of many stations on the through run from Port Arthur, Talienwan, or Newchwang to St. Petersburg, or even Berlin and Paris, but to Russians it meant a great deal more. The flash of pride which came in the eyes of Viceroy Alexeieff, as he looked upon the nucleus of a new St. Petersburg of a Greater Russia in the Orient, was reflected by all around him, from railway guard, frontier guard, and Cossack to the highest officers, both civil and military.

Though built essentially as political and military undertakings, the Manchurian railways, or Chinese Eastern railways, as they are officially called, must have a beneficent effect on Manchurian trade generally, as that country is more and more opened to foreign and Chinese settlement.

The Chinese Eastern railways are built to the Russian or broad gauge, while the Chinese railways of Manchuria, or Imperial Chinese railways, are built to the British or standard gauge, so that even did the Liao Ho not intervene, or were it bridged over, there could be no system of through-running trains. In the beginning of the year 1904 the railways of Manchuria, both those of English and those of Russian origin, would compare in construction with any lines in the world. They were splendidly ballasted and systematically operated. Most expensive bridging is a feature of the Chinese Eastern railways, as it is of the trans-Siberian line. The quality and number of the bridges may account in part for the heavy cost per mile of these railways as compared with those of the Imperial Chinese railways. Since February, 1904, the

Russians have completed the branch line from Changchunfu (one hundred and seventy miles north of Mukden) to the great trade town, ninety miles distant, called Kirin, the capital of the province of the same name. Ten miles north of Liaoyang (on the Taitzuho), there is the station of Yentai, from which a branch railway runs east for over twelve miles to the hard-coal mines of Ma Shih Shan.

The branch to Kirin, though built by the Russian military authorities for strategic purposes, should prove, in times of peace, a paying adjunct to the trunk system, as it runs through a well-populated area to which considerable trade in native and foreign products is carried overland by carts and camels, at rates varying from 1 to 3*d.* per ton mile, or 5 to 15 cents (Mexican). As the railways of China seldom rise higher in freightage than 1*d.*, or less than 5 cents per ton mile, this line, working on a similar scale, should attract considerable traffic. Near Kirin are large deposits of coal, which are worked in a primitive fashion. The output commands in the capital 6 to 10*s.*, or $3 to $5 (Mexican) per ton at retail. Several of the mines lie along the ninety miles of railway, and to the north of the city and east of the Sungari. Iron and gold (in quantity) are found to the east and southeast of Kirin city, and these will prove at a future date valuable freights for the highly important branch, as will also the timber from the forests to the east and south.

Though the Vladivostock-Harbarovsk Railway is not actually a part of the Chinese Eastern Railway system, it has such an effect on the trade of eastern Manchuria that it may be considered in a description of Manchurian land routes. Work on this iron road was commenced May 31, 1891, when the first sod was turned by the present Czar (then the heir apparent), and it took four years and nine

months to complete about four hundred and eighty miles of track at a cost for permanent way and rolling-stock of over £8000 per mile. Traffic commenced on February 13, 1896. At the town of Nikolsk, nearly one hundred miles north of Vladivostock, this railway, which is called the Ussuri line, joins that of the trans-Manchurian system. It is an imposing and important town. From Nikolsk the Ussuri line runs due north through densely wooded country, full of large and small game, reported as being a richly metalliferous belt, and, passing between fifteen and thirty miles to the east of Lake Hinka, gradually drops into the valley of the Ussuri to the east bank of which it crosses between Lutkovskaia and the station of Ussuri. The bridging along this route is a standing testimonial to Russian railway-engineering skill, particularly the three-span bridge, seven hundred and eighty feet long, crossing the Ussuri at the above-named point, and the iron girder structure of two spans, measuring five hundred and sixty feet over the Bikin River, two and a half miles to the south of Bekin River. This portion of the track runs through country alternating between hill and valley, the latter liable to floods. The hills are densely covered with oak, birch, pine, ash, and elm, and are traversed by picturesque rivers, streams, and hill cascades. Considerable beds of coal and iron, as well as alluvial deposits of gold, lie to the west of this river and railway, but practically nothing has been done to develop them. The two tributaries of the Ussuri, the Khor and Kiya, which, coming from the east, join the river about seventy-five miles south of Harbarovsk, had to be bridged, the latter requiring a structure of four spans, eight hundred and forty feet in total length. There were practically no engineering difficulties between this point and Harbarovsk. The station of Krasnaia-Retchka, about sixteen miles south

of Harbarovsk, is a junction for a short line of six miles running to the banks of the Ussuri, which is navigable for steamer traffic to the junction of the Iman River, and on these two rivers steamer freightage is cheaper than rail transit. The cost of the latter is exorbitant. Trains travel over this line at the rate of about twenty-four miles an hour, exclusive of stops, which, however, number about thirty stations and nearly as many wayside sidings, where trains pull up for intervals far too long. The journey thus takes little less than two days. The rolling-stock is abundant, the trains are heavy with goods and passengers, and everything connected with the railway suggests a profitable enterprise with a great future under normal conditions.

I have now given a description of the existing railways to the north which belong to, or have a direct or indirect bearing upon, the Chinese Imperial Railway. And now, starting with Peking, I will trace the iron road southward. In the minds of the Chinese the most important railway work in China is the construction of a line to link the capital of the Empire with Hankow, and the history of this line is of the gravest interest to all Anglo-Saxons having commercial interests in China. It was originally intended that this line should form one of the great trunks of the Imperial Chinese Railway system, but in the year 1897 a wealthy Belgian syndicate secured the franchise to construct the line, although a powerful Anglo-American syndicate was in the field seeking a concession. However, with the assistance of the diplomatic representative of France in Peking working for the Belgians as against Anglo-American commercial interests, the right to construct the line was secured by a nominally commercial Belgian syndicate, as above stated, in 1897. The nominally Belgian syndicate is in reality a Franco-Russo-Belgian

political group endeavouring by every possible means to cut off British and American trade from the centre and southwest of China. The British and American ministers protested against the betrayal of their national interests, but their protest was disregarded by Chinese officialdom engineered by continental diplomacy in Peking. On the other hand the Russian protest against the bonding of the Newchwang and Hsinmintun sections of the Pechili railway to the British China Corporation was again successfully engineered by continental diplomacy.

I do not for a moment wish to reflect upon diplomatic servants of the continental powers, but wish to emphasize the fact that those familiar with Orientals can better understand the workings of Oriental minds and the best way to obtain what they desire from Orientals. If Great Britain and America wish to be successful in the rush for China markets, their ministers in Peking should be trained in things Chinese.

To return from this digression to the Peking-Hankow (Peihan) Railway. This association of Franco-Russo-Belgian financiers has in its contract secured the full right of mortgage, alienation, and foreclosure of a line penetrating into the heart of the alleged British sphere of influence, the Yangtse valley. It is a well-known fact that the politico-commercial Russo-Chinese Bank, in which the Russian central government is deeply interested, has always been at the back of the Belgian syndicate, that bantling corporation controlled by the financier king of the Belgians. This monarch and the Belgian corporation have all along been accused of being under the guidance of Russia. When this fact is known, it gives point to the remarks previously quoted from "Greater Russia" by Gerrare. In the year 1899 the governments of Great Britain and Russia, "animated by a sincere desire to avoid in

China all cause of conflict on questions where their interests meet, and taking into consideration the economic and geographical gravitation of certain parts of the Empire," agreed (1) that "Great Britain engages not to seek for her own account, or on behalf of British subjects, or of others, any railway concessions to the north of the Great Wall of China, and not to obstruct directly or indirectly applications for railway concessions in that region supported by the Russian government."

(2) "Russia on her part engages not to seek for her own account or on behalf of Russian subjects, or others, any railway concession in the basin of the Yangtse and not to obstruct directly or indirectly applications for railway concessions in that region supported by the British government."

Both the British minister and the British government at home have consistently adhered to the letter and spirit of the 1899 convention. On the other hand, the Russian minister, Russian political agents, and the Russian government at home have as consistently overridden the convention in word and spirit, and nowhere more flagrantly than in securing for the Russo-Chinese Bank a controlling voice in the finances and management of the Peihan (Luhan) Railway between Peking and Hankow.

Mr. Kinder, engineer-in-chief of the Imperial Chinese Railway, undertook the construction of the line from Fengtai, the station on the imperial system distant from the imperial capital only five miles. Under his supervision the work was carried out at a cost of about £6000 or gold $30,000 per mile, and was in full running order for the eighty-eight miles to Paotingfu early in October, 1899, under the Imperial Chinese Railway Administration. At this time a further ten miles had been constructed from Liukouchao on the Liulikou to Choukoutien and handed

over to the Belgian syndicate, "Compagnie de Chemins de Fer Chinois." In March, 1899, previous anticipations of the inability of this Belgian syndicate to complete the line to Hankow were only too amply justified. Although the Anglo-American syndicate held a right of reversion in case of the failure of the Belgian group to construct the line themselves, the aforementioned Franco-Russo-Belgian syndicate, under the name of the "Société d'Études de Chemins de Fer en Chine," secured *de facto* the full control of construction and working of the Luhan Railway by giving a loan of £4,500,000, the money to be returned by the Chinese government in annual instalments for twenty years from the date of the first instalment in 1909. The loan was issued on April 12, 1899, and was subscribed five times over.

The French and Belgian surveyors got rapidly to work from both the Paoting and the Hankow ends of the line, and, thanks to their efforts, the world is in possession of detailed maps of great value of the country along the line of the railway. They indicate the great trade towns, with an index of the populations and the possible transit trade to be derived from these; and this is one of the most valuable points in connection with the building of the railway. They also indicate the extent and class of minerals in the surrounding country.

The French and Belgian officials in one respect showed their capacity for such work. They employed as far as possible local labour in the various districts traversed by the road, with the result that the construction of the embankment was very rapid.

In September, 1901, the permanent bed of rails had crossed the Hupeh and Honan borders from the south; that is to say, the embankment had been pushed from the south for one hundred and fifteen miles northward and

rails laid for more than seventy-five per cent of this distance. As quickly as possible each section was opened, and trains were running by the end of the year over ninety-one miles of the route. Farther north the bridge construction was only started, and trains ran over temporary wooden erections. Serious riots in Hupeh, Honan, and Chili during the month of May, 1900, had driven the railway engineers from the outlying districts into concentration camps. The riots continued throughout the month, and took a "Boxer" tone in June, in which month the Lukouchou station was burned, and later the same fate befell the stations at Fengtai. The disturbed condition of the country throughout 1900 prevented any railway work being carried on in the interior.

During the absence of the legitimate government from Peking and the period of foreign military occupation, the Luhan directors came to an understanding with the British Railway Administration that both bodies should transfer their termini from Fengtai to the Chen Men of the Tartar or inner city of Peking. By the beginning of the year 1904 the railway was open as far south as Kihsien and as far north from Hankow as Siu Chenhsien. By July work was pushed as far south as Weihuifu and north to Cheng Chow. It cuts through important mining areas and taps wealthy markets, so that from a commercial point of view the linking of this line over the great Hwang-ho bridge will be an event of international importance.

The fares and freight charges on this line are somewhat heavier than those on the Imperial Chinese railways of north China, but at the same time are very low in comparison with those obtaining on foreign roads.

In the year 1898 an Anglo-Italian syndicate, subsequently known as the Peking syndicate, secured extensive mining, railway, and industrial rights in Shansi, Shensi,

and north Honan. The following year saw the railway surveyors and mining prospectors of this syndicate spread all over the area named, where they continued their labours until the events of 1900 drove them to safety in the treaty ports. By this time, however, they had sufficient data to go upon, and one of their many railway projects was mapped out. This done, and the country somewhat quieted, the pioneers returned to their posts, and through the Chinese party in the syndicate proceeded to purchase land necessary for the line. Actual construction was started in 1902, and by the beginning of 1904 the iron road was opened from Taokow (Head Gully) on the Wei River to Pa Shan, near Chunghua, a distance of about eighty-seven miles, cutting the Peking-Hankow route at right angles. When first opened, the line carried only employees of the syndicate's mines and railways, but the new mode of conveyance attracted the attention of natives rich and poor. These were carried at merely nominal rates, and the line became the most popular mode of conveyance for both goods and passengers. The freight for goods was 4½ cents, or less than 1*d.*, per ton mile, and for passengers in the roughest of third-class trucks about ½ cent per mile. Owing to the amount of traffic, these rates were exceedingly remunerative. It is, however, intended to have final rates somewhat between those of the Imperial Chinese railways of north China and those of the Luhan line.

In March, 1904, negotiations were opened between the Peking syndicate and the administrative bureau of the Chinese Imperial railways with the object of the latter taking over the traffic management of the line and leaving the syndicate at liberty to extend the line north and west from Chunghua. Pending the decision work on extensions was temporarily suspended. For all parties con-

cerned it is to be hoped that the state will be induced to take up the direct administration of the various railway systems as completed, giving the constructing companies such compensation as will tend to the extension of their work as railway builders. In this manner the Chinese would have the unhampered control of such lines in case of military mobilization.

With the working of the Shansi and Honan hard coal, as well as of the iron and oil of Shansi and Shensi, the value of this railway will be second to none in America or England. As an example of the transportation value of this railway it would be almost sufficient to say that in the year 1898 China imported 730,606 tons of coal, and that this importation is on the increase, while in the province of Shansi there are 13,000 square miles of coal-fields with seams of anthracite from eight to forty feet thick, together with an almost equally extensive bituminous coal area. The syndicate which constructed the railway just mentioned holds the proprietary mining rights in these two vast fields. Pennsylvania in all her glory does not hold out such opportunities for mining and railway enterprise as does the region of this line.

The embankment is partially constructed and the permanent way prepared on the road to Huai Ching, and ultimately this line will be extended southwest to Honanfu, where it will join the same company's projected line, in conjunction with the British China Corporation, to Kaifeng and Tsao Chow, where it will join the German Shantung system.

The student of Oriental history will recall that in the year 1897 an Anglo-Saxon missionary, Mr. Brooks, was murdered, but beyond demanding the adequate punishment of the culprits and the officials responsible, Great Britain made no move. It was, however, different in

November of that year when, by the murder of two German missionaries, Teutonic pride was wounded in its imperial dignity. The punishment of the murderers and local officials was not sufficient. The vigorous mailed fist was ready to grasp wherever there was little chance of receiving a counter blow from the country attacked. The pride of Germany could only be satisfied with the cession of Kiao Chow and the surrounding land and water, of which she took forcible possession from a country with which she was at peace. This was the beginning of the new diplomacy of the "mailed fist" toward China. China, or rather the Manchu government, was too invertebrate to resist, and Germany was permitted to retain the key to the exploitation of Shantung, the provincial home of Confucius, with a population of 37,000,000. In spite of the great population the province is relatively poor, although inherently rich in unworked coal, iron, asbestos, lead, silver, gold, rubies, diamonds, graphite, tin, zinc, talc, and some of the rare earths.

In the great rush for railway concessions Germany secured the sole right of railway construction in Shantung. In this province, she gave the European powers to understand she had marked off a special sphere of influence, although in no whit reducing her claims to favoured-nation treatment elsewhere in the Empire. It was not till the spring of 1899 that the German Shantung Railway syndicate was able to secure the necessary capital to commence railway construction. The first sod was turned for the first section between Kiao Chow (Tapaduhr) and Weihsien (on the Wei River) on June 2, 1899, with the customary German ceremony. Then, after time for official congratulations to subside, the construction of the line was seriously taken in hand. Ballasting material was by no

means deficient, but all the material for rails and sleepers had to be imported, as Shantung has been depleted of all timber useful for such purposes.

In June, 1899, tenders were invited from native contractors for the construction of seventy-five kilometers of embankment between Tsingtao and Kaomi, and this looked like business, but on the eighteenth of the same month a riot took place in which the sheds and works of the Kaomi district were destroyed. These riots can be attributed to lack of tact on the part of the railway authorities. Riots were repeated in February, 1900, on a large scale. Meanwhile there had been several minor disturbances. Investigation proved that the people were moved by the following considerations: —

(1) They preferred to have no railway in the sacred province of Confucius.

(2) If the railway must be built, they desired local interests to be considered, and the work done with the minimum of damage to crops and farms.

(3) They desired the employment of local labour on works in a province where such work would be a consideration to a poor and large population.

(4) They protested against the importation of the low-class Tientsin coolie, when Shantung could supply any number from its 30,000,000 inhabitants.

(5) They demanded that ample provision be made for the drainage of the reclaimed lowlands through which the railway was being constructed.

That a riot should result from the culpable neglect of Europeans to anticipate and make provision for meeting amicably such justifiable demands shows the intolerable ignorance of those who seek to carry out industrial enterprises in China.

The natives received no compensation from damage

resulting from items 2, 3, 4, and 5, and the riots only quieted down in February, 1900. Meanwhile, regrettable loss of life and injuries had occurred on both sides, and compensation was made for the German losses in April, 1900, but the Chinese got nothing. As a result of further injustice and regrettable incidents rioting again broke out in April near Kaomi, but was quickly put down, and work was pushed ahead until June, when warnings of the coming Boxer storm made it necessary for engineers to gain the safety of the harbour precincts. In October, 1900, work was again resumed, and construction trains began to run by the end of the month to Kiao Chow. The permanent way was built, but not ballasted, to near Kaomi by the end of the year. So rapid was the progress made on this section that on March 9, 1901, a formal opening of the Shantung railway between Tsingtao and Kiao Chow, a distance of forty-seven miles of excellent road, took place in the presence of the governor of Shantung and many other Chinese dignitaries. June of the same year saw the rail head pushed to Kaomi, seventeen miles distant from Kiao Chow. Thereafter work became more difficult and bridging a considerable item in the cost. By the beginning of 1902 the section to Weihsien, which presented many engineering difficulties, was completed and opened with great ceremony. The bridging of the Weiho is a credit to German engineering, as the river-bed is broad and flat, very shallow in the winter, but a regular torrent in the summer, and this caused many of the temporary structures to be carried away. Weihsien, one of the most important market-towns in the province, is in the midst of an extensive and rich mineral belt running northeast and southwest. The section to Changshan was opened a year later, and from here construction proceeded at a great rate in spite of much cutting and bridging.

Changshan is the junction from which runs the Poshan branch of the road, to tap the coal-fields in the valley of that name, where there are thirteen large native coal-mines and one operated on an extensive scale by a German company. The coal from this district is at present being used on the railway, but with increased production it must necessarily have an important bearing on the future of the German port of Tsingtau.

On May 15, 1904, the first train from Tsingtau ran into the station at Chinanfu, the capital of the province of Shantung. The length of the main line and branches opened on this date approximates three hundred miles.

The railway from Canton to Fatshan and thence to Samshui is part of the Hankow-Canton trunk-line, the franchise for which was given to an Anglo-American syndicate as far back as 1898. Soon the British element dropped out, and the undertaking became solely one for American enterprise, but the British minister continued on all occasions to support the aspirations of the American concessionaries.

In the year 1900, just before the Boxer outbreak, the Belgian syndicate opened negotiations with the American syndicate for the purpose of jointly constructing the trunk-line from Hankow to Canton, as the Americans alleged they found great difficulty in raising the money in New York and London. It was not, however, until the beginning of 1904 that certain resignations from the board, and the filling of these vacancies by nominees of the king of the Belgians, made the general public aware of the fact that an American-Belgian deal had been accomplished. Work on the line from south to north has not yet got beyond the stage where W. Barclay Parsons left it in 1899, namely, the preliminary survey. But the first section of the Canton-Samshui branch was

opened to traffic on November 15, 1903, and immediately there were more demands for tickets than the rolling-stock, then limited, could accommodate. This is a distinct confirmation of the statement made by Mr. Parsons to his employers: "Between Samshui and Canton, however, there is a country in which railway operation would pay handsomely." The opening on June 1, 1904, of the full length of line of twenty-eight miles between Canton and Samshui was followed by traffic receipts which far exceeded the promoters' anticipations. These receipts daily increase with the extension of the line. Besides Fatshan with its 750,000 inhabitants and flourishing trade, in excess even of that of Canton, the railway passes many prosperous towns hitherto somewhat crippled for want of rapid transit. The chief of these is Hsinam, with a population a little under 10,000, and only less as a manufacturing centre than Fatshan. Canton possesses, in a population of over 1,000,000, many men who can reckon their wealth in seven figures, while Samshui, since it became a treaty port, has grown in trade and importance and is aided in this by the advantage of its position at the junction of the West and North rivers.

The start made on this line has been so encouraging in its results that the work on the main line is now being prosecuted.

The line as surveyed, starting at Samshui in its journey through Kwangtung, passes the following rich industrial or market-towns: Tsing-yuan, Yingte, then west of the prefectural town Shaochaofu, Laochang, Pingshi, and Yichang on the Hunan-Kwangtung frontier. Across the border of Hunan it must make its way over the Cheling range, over one thousand feet above sea-level, through a pass at an altitude of less than eight hundred feet, then over the anthracite coal-bed lying between

Chen Chow and Hingningyuen to Yanghsing, then to Liying and Hengchau, near each of which towns there are extensive deposits of coal, iron, and copper. At Hengchau the railway route as far as Changshafu, the capital, follows the valley of the Siang River (which reminds one of the winding picturesqueness of the Lehigh Valley Railroad). From Changsha to Yochow (40,000) the railway has on the one side the Siang River and then the shores of the Tungting Lake, and on the other mountains stained by the various minerals with which they abound. From Yochow the line breaks northeast to Pu Chi, a thriving native town, and then by way of Lui Chikow to Wuchang. Throughout the whole journey in Hunan the route lies along a line of mineral deposit seldom found in similar extent in any other part of the world except Chinese Manchuria.

A survey has been made for a branch line from Samshui to Kuilin, the capital of Kwangsi, via the cities of Wuchow and Pinglo, about three hundred miles.

As the railway will pass twenty-five miles to the east of Yochow in Hunan, a branch line will be run to this important town, while another spur of nine miles will be run in the same province to the coal area of Siangtan.

The Canton end will link this city with the important shipping port of Swatow via Huichow, Haifeng, and Puning.

His Excellency Sheng Kung Pao owns a large coal-bed at Pinghsiang in the province of Kiangsi, where it is possible to produce over two thousand tons of coal *per diem* of a high grade bituminous quality, making an excellent coke. For the purpose of developing these mines his Excellency had a line of railway surveyed to Lukow on the Lu River, a tributary of the Siang River. Work on the railway was started in 1899 without the

assistance of any foreign capital, and in 1902 trains were running over the whole distance of seventy miles, carrying coal from the mines to his Excellency's boats on the Lu River and bringing back machinery, etc., required at the collieries. There never has been any hitch or disturbance on this railway, which is operated by Chinese accustomed to consider and conciliate local prejudice. From the very start the native gentry and peasants desired to utilize this railway for passenger traffic, although it was originally built for mining development. In 1904 it was doing a large passenger and goods traffic as well as carrying over one thousand tons of coal *per diem* from the mines. So important and valuable has this line proved that it is being gradually extended to Shu Chao and Nan Chang (the capital of Kiangsi) on the Kan River at one end, and to the west it will be pushed to Changsha.

So quietly and successfully has this line been worked that very little is heard of it, or will be heard of it, until suddenly its importance as a trade route will dawn on some consular official or isolated merchant. This line at no distant date will form a branch of the Grand Trunk line from Canton to Hankow (Wuchang) and play an important part in linking up the Empire with iron roads.

Next there is a very short line of railway from the Tiehsanpu Iron Mines in Hupeh to the Yangtse at a point over seventy miles from Hankow. This is run at present simply as a mining railway, and cannot be looked upon as one of the commercial land routes of China.

The most important railway concessions which have been granted, but on which no work other than surveying has been done, are as follows: —

1. Tientsin-Chinkiang, Anglo-German concession, about 600 miles.
2. Chinkiang-Sinyang, British China concession, about 250 miles.
3. Shanghai-Nanking, British China concession, about 150 miles.

4. Soochow-Hangchow-Ningpo, British China concession, about 120 miles.
5. Shanghai-Hunan, Belgian-Chinese concession, about 560 miles.
6. Kowloon-Canton, British China concession, about 105 miles.
7. Macao-Samshui, American-Chinese concession, about 70 miles.
8. Swatow-Tao Chow, Chinese concession, about 180 miles.
9. Tientsin-Paotingfu, Chinese concession, about 100 miles.
10. Tung Chow-Kaiping, Chinese concession, about 90 miles.
11. Peking-Kalgan, Chinese concession, about 140 miles.
12. Chengting-Chinanfu, German concession, about 170 miles.
13. Chengting-Taiyuen, Russian concession, about 140 miles.
14. Hankow-Chengtu, Chinese concession, about 800 miles.
15. Changsha-Chenchow, Chinese concession, about 230 miles.
16. Nanking-Haifeng, British China concession, about 390 miles.

As may be seen from the following, railway fares in China are very low: —

System	Section	First Class	Second Class	Third Class
Imperial Chinese	Tientsin-Peking	$0.03	$0.01½	$0.00½
Imperial Chinese	Tientsin-Tangku	0.02½	0.01½	0.00½
Imperial Chinese	Tangku-Yinkou-Hsinmintun	0.02	0.01	0.00½
Imperial Chinese	Shanghai-Woosung	0.10	0.06	0.02
German	Tsintao-Chinan	—	0.05	0.02½
Luhan (Franco-Belgian)	Peking-Changte	—	0.03½	0.01½
Luhan (Franco-Belgian)	Hankow-Hu Chow	—	0.03½	0.01½
American	Canton-Samshui	—	—	—

The average freight charge taken as a whole for all the lines is in round numbers 5 cents or 1*d.* per ton mile as against a general average for all native methods of 11 cents or 2½*d.* per ton mile.

The German Shantung Railway carries fourth-class passengers at 1½ cents per mile.

It may be taken that 5 cents (Mexican) is a little over 1*d.* English or 2½ cents American money.

The following particulars of the sectional opening of the Luhan line are interesting as showing the rapidity of present railway development in China:—

(1) Total length of the Peking-Hankow line, 808 miles.

(2) Distance between Peking and Yellow River, 440 miles.

Distance between Hankow and Yellow River, 366 miles.

(3) The bridge on the Yellow River will be 2 miles long.

(4) The railroad from Peking to the Yellow River extends actually for 537 kilometers, to near Weihuifu.

The railroad from Hankow reached the Yellow River in June, 1904.

(5) The railway crosses the provinces of Pechili, Honan, and Hupeh.

(6) The north section, from Peking, will reach the Yellow River next March, joining the railroad from Hankow.

(7) Work on the Yellow River bridge is in full activity and will be completed by next July.

(8) The section from Peking to Paotingfu (97 miles) has been open to traffic since October 1, 1899.

The section from Paotingfu to Chingtingfu (175 miles) has been open to traffic since January, 1902.

The section from Chingtingfu to Shuntefu (252½ miles) has been open to traffic since September, 1903.

The section from Shuntefu to Changtefu (336½ miles) has been open to traffic since November, 1904.

(9) The section from Hankow to Koangchoei (102 miles from Hankow) has been open to traffic since December, 1901.

The section from Koangchoei to Sinyangchow (146 miles) has been open to traffic since August, 1902.

The section from Sinyangchow to Tchosangsien (199 miles) has been open to traffic since September, 1903.

The section from Tchosangsien to Yentcheng (256 miles) has been open to traffic since May, 1904.

The section from Yentcheng to Chuchow (292 miles) has been open to traffic since November, 1904.

The opening of traffic from Peking to Hankow must wait until the Yellow River bridge is completed.

In June, 1905, the Hankow to Yellow River section will, however, be open to all classes of traffic.

(10) In 1903, on both sections of the line open to traffic, north and south, the carriage of passengers amounted to 800,000, all classes, and the carriage of goods and merchandise amounted to 850,000 tons.

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